

1           6-16-2022   - Monthly Meeting   - Albany, New York

2                       STATE OF NEW YORK

3                       PUBLIC SERVICE COMMISSION

4                       MONTHLY MEETING

5

6                       Thursday, June 16, 2022

7                       10:31 a.m. until 3:48 p.m.

8                       ESP, Building 3, 19th Floor Boardroom

9                       Albany, New York

10

11   COMMISSIONERS:

12   RORY M. CHRISTIAN, Chair

13   DIANE X. BURMAN

14   TRACEY A. EDWARDS

15   JAMES S. ALES

16   JOHN B. MAGGIORE

17   DAVID J. VALESKY

18   JOHN B. HOWARD

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1 6-16-2022 - Monthly Meeting - Albany, New York

2 (The meeting commenced at 10:31 a.m.)

3 CHAIR CHRISTIAN: All right. Good  
4 morning, everyone. I call this session of the Public  
5 Service Commission to order. Madam Secretary, are  
6 there any changes to the final agenda?

7 SECRETARY PHILLIPS: There are no  
8 changes to the final agenda.

9 CHAIR CHRISTIAN: Thank you. Before  
10 moving on, I'd like to call roll call. When I call  
11 your name please confirm that you are present.  
12 Commissioner Diane Burman?

13 COMMISSIONER BURMAN: Present.

14 CHAIR CHRISTIAN: Commissioner James  
15 Alesi?

16 COMMISSIONER ALESI: Present.

17 CHAIR CHRISTIAN: Commissioner Tracy  
18 Edwards?

19 COMMISSIONER EDWARDS: Present, good  
20 morning.

21 CHAIR CHRISTIAN: Morning.  
22 Commissioner John Howard?

23 COMMISSIONER HOWARD: Present.

24 CHAIR CHRISTIAN: Commissioner Dave  
25 Valesky?

1 6-16-2022 - Monthly Meeting - Albany, New York

2 COMMISSIONER VALESKY: Present.

3 CHAIR CHRISTIAN: Commissioner John

4 Maggiore?

5 COMMISSIONER MAGGIORE: Present.

6 CHAIR CHRISTIAN: Thank you. Okay.

7 Before we begin I want to let everybody know we'll be  
8 taking one or two breaks for transition. We'll  
9 announce those as we go. Our first item for  
10 discussion today is item 102, Cases 21-G-0260 and 21-  
11 G-0394. Related to the Corning Natural Gas Rate Case  
12 and Merger. It will be presented by Administrative  
13 Law Judge Gregg Sayre. Please begin.

14 A.L.J. SAYRE: Good morning, Chair  
15 Christian, and Commissioners. This Draft Order  
16 covers two cases, one of which is for approval of the  
17 merger of the parent company of the Corning Gas  
18 Natural Gas Utility and the second of which is a  
19 traditional major rate case. These cases have been  
20 99 percent settled with only one minor issue  
21 remaining for decision that I'll discuss in a couple  
22 of minutes.

23 I'll start with the rate case. The  
24 company filed for a three-year rate plan, offering  
25 both levelized and un-levelized rate increases for

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           the three years along with the necessary data for a  
3           standard one-year rate case. The case progressed  
4           normally with discovery, staff and intervener  
5           testimony, and company rebuttal. The parties opted  
6           to engage in settlement negotiations which were  
7           successful, leading to the filing of a joint proposal  
8           on March 14th of this year.

9                       The joint proposal has since been  
10          updated three times to correct some typos and adjust  
11          some of the reporting requirement due dates with the  
12          consent of the parties. The Draft Order adopts the  
13          joint proposal as revised. I'll get into the revenue  
14          and rate impact numbers in a minute. All parties to  
15          the case but one either agreed to the proposed rate  
16          settlement or agreed not to contest it. With only  
17          the Public Utility Law Project objecting to the rate  
18          settlement.

19                      PULP did not file testimony or request  
20          to file briefs, and it did not raise any issues in  
21          the record for Commission resolution. When it came  
22          time for the evidentiary hearing last month, no party  
23          wanted either to conduct cross-examination or to file  
24          briefs. So the testimony and exhibits were placed in  
25          the record along with the joint proposal and the case

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           is coming directly to the Commission.

3                       Getting to the numbers, the parties  
4           proposed a three-year rate plan with levelized  
5           increases of between 1.7 and \$1.8 million in each of  
6           the three rate years starting this July 1st, which  
7           amounts to a little less than half of the levelized  
8           proposal that the company initially filed.

9                       For the average residential heating  
10          customer, the bill impact of the increase in delivery  
11          rates, which are what the Commission regulates in  
12          this rate case, would be approximately \$82 annually  
13          for the first year, \$89 annually for the second year  
14          and \$86 annually in the third year. In percentage  
15          terms holding the commodity rate constant, the total  
16          bill percentage increase impacts for the three years  
17          are 6.9 percent in year one, 7 percent in year two,  
18          and 6.4 percent in year three.

19                      The parties negotiated a large number  
20          of reporting requirements and potential revenue  
21          adjustments, including the requirement of 28 miles of  
22          leak-prone pipe replacement, customer service and gas  
23          safety metrics including a number of improvements  
24          from existing metrics, and a downward revenue  
25          adjustment if the company makes capital expenditures

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           less than forecasted.

3                       There is a proposed earning sharing  
4           mechanism that would give back to ratepayers 50  
5           percent of earnings achieved between 9.75 and 10.25  
6           percent return on equity, 75 percent of earnings  
7           between 10.25 and 10.75 R.O.E., and 90 percent of  
8           earnings above 10.75 percent Return on Equity. The  
9           revenue requirement calculation includes an assumed 1  
10          percent productivity adjustment.

11                      In line with the Climate Leadership  
12          and Community Protection Act the proposal requires  
13          the company to develop a strategic decarbonization  
14          plan, consult with staff, and file a report regarding  
15          alternatives considered when constructing any new  
16          line extensions over 500 feet. Engage in more energy  
17          efficiency, customer education, and file greenhouse  
18          gas emission data to serve as a baseline for future  
19          greenhouse gas reduction programs. The greenhouse  
20          gas data have already been filed.

21                      The Draft Order also resolves the  
22          company's merger case, which proposes to transfer  
23          control of Corning Gas's parent to Argo  
24          Infrastructure Partners L.P. No parties objected to  
25          any of the joint proposals merger provisions and PULP

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           agreed not to oppose this section of the joint  
3           proposal.

4                       The joint proposal if adopted by the  
5           Commission requires a number of ratepayer protections  
6           and other safeguards including independent directors,  
7           a local location of books and records, protection of  
8           employment records for a year, honoring of collective  
9           bargaining agreements, continued ring fencing, as was  
10          required in the company's last merger case in 2013.

11                      Credit metric requirements, exclusion  
12          of goodwill on the books of the company and its  
13          parent, and the provision of financial data from the  
14          new corporate owners to staff upon request. There is  
15          also a \$1.2 million public benefit adjustment to  
16          offset some of the rate plan's impacts.

17                      The Draft Order finds that the merger  
18          commitments create net positive benefits for the  
19          regulated utility and its customers. Last and least,  
20          the joint proposal has provisions dealing with the  
21          current pending Article 78 proceeding, which is  
22          effectively an appeal from the Commission's order in  
23          the company's last rate case, Case 20-G-0101.

24                      These provisions do not tie the  
25          Commission's hands in the Article 78 proceeding.

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           Ratepayers, however, are protected by an agreement  
3           that any settled or litigated rate increase resulting  
4           from the Article 78 proceeding will not be reflected  
5           in rates until the company's next future rate case.  
6           And that there will be no carrying charges assessed  
7           on ratepayers due to any such delay.

8                         The Department of State Utility  
9           Intervention Unit objected to the linkage in the  
10          joint proposal between the Commission's approval of  
11          the rate and merger cases and the agreements with  
12          respect to the Article 78 case. This is actually the  
13          only dispute presented by the parties for resolution  
14          by the Commission.

15                        The Draft Order finds the objection to  
16          be moot because the Commission and the order if  
17          approved, is individually and separately reviewing  
18          the rate case, the merger case, and the Article 78  
19          provisions, and finding each of them to be in the  
20          public interest. The linkage between the three is  
21          essentially irrelevant and it is fully understandable  
22          that the company was not willing to agree to delay a  
23          -- a potential make whole a revenue increase that  
24          might result from the Article 78 proceeding unless  
25          the Commission was also approving the rate and merger



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           case at the same time.

3                       That completes my presentation, and we  
4           are available for questions. Thank you.

5                       CHAIR CHRISTIAN: Thank you, Judge  
6           Sayre. I just have a clarifying question. When  
7           you're talking about the leak-prone pipe, did you say  
8           retirement of the leak-prone pipe? Just wanted to  
9           make sure.

10                      A.L.J. SAYRE: Replacement.

11                      CHAIR CHRISTIAN: Replacement. Thank  
12           you. Okay, great. So again, thank you for your  
13           presentation. Again, I -- I think the settlement you  
14           presented today definitely strikes that balance that  
15           we as regulators seek to achieve. So I wanted to  
16           thank you for your hard work in bringing this to us  
17           in this manner. So thank you.

18                      A.L.J. SAYRE: Thank you.

19                      CHAIR CHRISTIAN: So with that, we'll  
20           go to Commissioner Burman, if you have any comments.

21                      COMMISSIONER BURMAN: Thank you so  
22           much. Thank you Judge for that very nice summary. I  
23           will be voting for this rate case today. But I did  
24           want to just raise a couple of things that I thought  
25           was worth noting.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 One is, U.A.U.'S concern on the  
3 linkage between and doing it all in one, Article 7,  
4 the Article 78, the merger, and the rate case. While  
5 technically I can agree with the results that, since  
6 they're all being found in the public interest and  
7 we're deciding them that those issues are moot. I do  
8 think it's worth noting that in this case, it might  
9 have made more sense for a Commission discussion  
10 before the Article 78 and the merger got moved into  
11 the rate case.

12 And the reason for that I think is  
13 appropriate for us to look at to see does it make  
14 sense? We usually do mergers in a -- in a different  
15 capacity. It had its own proceeding, and it would  
16 have made more sense for buy in, at least from the  
17 Commission, but also to settle that it is for us to  
18 decide how the rate case should be looked at and what  
19 side issues may go into it or not.

20 That's also something that I sort of  
21 been, you know, talking about since I came on the  
22 Commission about, perhaps there is a need for the  
23 Commission to take a closer look at what the makeup  
24 of the different issues, what different proceedings  
25 may or may not go in there. And that would have at

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           least made me feel like we had done our due diligence  
3           in deciding what was proper or not.

4                       But I do agree that what's before us  
5           we can feel comfortable with and for that, you know,  
6           they are -- these issues now are moot. But I would  
7           have liked the Commission itself that had the  
8           opportunity to weigh in on that. And I do think that  
9           going forward, it may get stickier for other things  
10          and rather than just dumping everything into the rate  
11          case without first looking at it from the Commission  
12          perspective. And then us not having had that  
13          opportunity to flush it out, you know, may -- may  
14          cause some challenges as well.

15                      Also, I do want to mention the Article  
16          78 and sort of the -- the way it's being decided in -  
17          - in the rate joint proposal. Can you just explain  
18          exactly what that is? Because I'm -- I'm having a  
19          hard time understanding what exactly we're getting  
20          from that.

21                      A.L.J. SAYRE: The Article 78  
22          proceeding, if it resulted in a settlement or/and a  
23          judgment against the Commission would give  
24          potentially some revenues in addition to what the  
25          Commission allowed in its rate order last year. It's

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           a locked in period because this new rate case  
3           replaces the old rate case.

4                       So what the Commission is getting out  
5           of the deal is that if there is a bundle of revenues  
6           that -- that it's found that the company is entitled  
7           to for that -- for that locked-in period between the  
8           last rate order and this rate order, it won't be  
9           reflected in rates until the next rate case which is  
10          at least three years down the road for an effective  
11          date and there won't be any carrying charges.

12                      COMMISSIONER BURMAN: Okay. I guess  
13          why I'm struggling with that is, I think it's pretty  
14          unlikely though, I guess it's not out of the realm of  
15          possibility, that a Court if it was deciding that the  
16          Commission had done it improperly would have then set  
17          the rates. And if in fact, what they would have done  
18          in that case, would then remand it back to us and  
19          then we would reopen the case.

20                      And so I -- I guess I'm just making a  
21          point in sort of the process because the Commission  
22          itself is really the party, the litigant in the  
23          Article 78 and so it's really between the Commission  
24          and the party who brought the Article 78, in this  
25          case, the company. And if -- if we had gotten it

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           wrong, if the Court found that it should come back to  
3           us then it would reopen the case and then any other  
4           parties that wanted to weigh-in would have had that  
5           opportunity.

6                           And so I just think, as we go forward  
7           to be mindful of, sort of where is the proper  
8           engagement that makes sense and not sort of now make  
9           it less clear in the Article 78 and the Court process  
10          is one that we really need to be thoughtful about.  
11          Again, in this case, the parties came to resolution  
12          and it's not really an issue. But it could be an  
13          issue especially in a more contentious Article 78 or  
14          in something where the Commission itself felt  
15          strongly.

16                          And again, that gets back to us having  
17          had the opportunity to decide whether it is  
18          appropriate to go forward. I do think it's great  
19          that people are sort of thinking outside the box.  
20          What if the -- what if there is a decision that says,  
21          you know, the rate should be set this way and the  
22          company being willing to say, no, we'll defer it.  
23          But I guess it's really in my mind kind of neither  
24          here nor there because that would be pretty unlikely,  
25          but it is what it is.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 A.L.J. SAYRE: I agree with you,  
3 Commissioner that -- that if the Court were to find  
4 in the -- in the company's favor and the Article 78  
5 wasn't settled. It -- it would probably be a remand.  
6 But on that remand, the Commission would still be  
7 looking at that locked-in period. And the agreement  
8 and the J.P. would still be effective that --

9 COMMISSIONER BURMAN: Yeah.

10 A.L.J. SAYRE: -- that anything coming  
11 out of that remand would still not be effective till  
12 the next successive rate case.

13 COMMISSIONER BURMAN: Right. Okay,  
14 that makes sense. So thank you. The other issue is  
15 I just want to clarify, so PULP opposed, but they  
16 didn't submit a statement in opposition. I'm -- I'm  
17 just -- I want to make sure I understand exactly what  
18 PULP's role was here.

19 A.L.J. SAYRE: PULP in general is not  
20 in favor of rate cases. Rather rate increases and I  
21 -- I can't say exactly what their thinking was. But  
22 they basically stated that -- that -- that they did  
23 not agree to the rate portion of the settlement and  
24 reserve the right to make statements against it.

25 COMMISSIONER BURMAN: So I -- I guess

1 6-16-2022 - Monthly Meeting - Albany, New York

2 I would just push back a little bit on that. If  
3 there's no statement in opposition then it makes it  
4 impossible for us to consider their position. And I  
5 really do think that it is incumbent upon any party  
6 especially one that is not a novice in rate cases to  
7 clearly articulate on the record their position even  
8 if it's that they're taking a neutral position.

9 And whatever that is that we have that  
10 on the record to then incorporate that. I understand  
11 their long-standing position, but their long-standing  
12 position has not always been consistent. And they  
13 have at other times weighed-in in support of, and so  
14 they need to evolve frankly, they're thinking because  
15 it doesn't help us in our decision making.

16 And so I just point that out because  
17 it leaves us having to really discount what could  
18 have been valuable information, at -- at least where  
19 I sit so just raise that; I've raised that before.  
20 But it does concern me because it is the voice, one  
21 voice of consumers that we really should have on the  
22 record that information to be able to -- to weigh-in  
23 on that -- that's part of that role PULP so I just  
24 weigh that.

25 The other thing that I just want to

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           underline is, so I guess I see this rate case as  
3           pretty straightforward. I think that the joint  
4           proposal is a sound one and I'm comfortable. But  
5           this isn't the first joint proposal that was filed in  
6           Corning. Could you explain to me a little bit about  
7           the process with that?

8                   A.L.J. SAYRE: Yes, I can. The -- the  
9           original joint proposal was filed on March 14th. The  
10          First Amendment was filed on March 17th to correct  
11          staff's appendices E and R and to add PULP signature  
12          page. The second revised J.P. is filed on May 3rd,  
13          which was the date of the hearings to correct some  
14          incorrect references to the company involved in the  
15          goodwill impairment analysis at pages 36 and 37 of  
16          the J.P.

17                   This problem was actually spotted by  
18          my fellow A.L.J. Jim Costello. I brought it to the  
19          company's attention. And the company consulted with  
20          me in advance to determine the proper procedure to  
21          make the corrections. So that change really  
22          originated on this side of the fence.

23                   The final revisions were filed on May  
24          23rd, which did two things. First, it changed the  
25          due date of the customer service performance



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           incentive filing from 60 days after the end of the  
3           rate year to 60 days after the end of the calendar  
4           year. And the purpose of that was to harmonize the  
5           due date with a similar due date in the company's  
6           last rate case.

7                       The second change on May 23 was to add  
8           a missing due date for the deferred payment agreement  
9           quarterly report. The J.P. up till then said that  
10          that quarterly report had to be filed but it didn't  
11          give a specific due date. So this final revision  
12          established the due date to be 60 days after the end  
13          of each calendar quarter. All of those revisions  
14          were thoroughly explained when they were made. They  
15          were made with notice to and no objections from the  
16          other parties. And I found them all to be reasonable  
17          and in the public interest.

18                     COMMISSIONER BURMAN: Thank you. So I  
19          -- I really appreciate you kind of going through that  
20          again. I just want to make a clarifying comment on  
21          this from a joint proposal's being filed and then  
22          revisions to that. That is atypical in this case  
23          each one is appropriate and does not raise major  
24          issues that would have required us to open up the  
25          proce -- the proceeding open up the joint proposal

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           and sort of have to give everyone an opportunity  
3           again to come back to the table.

4                       I want to make this point because in  
5           other cases down the road, people may cite to well,  
6           it's not a problem to have a new joint proposal or  
7           revised joint proposal. These joint proposals when  
8           they are finalized and filed really need to be the  
9           end of that process because otherwise, everyone will  
10          sort of see it as, or people may see it as perhaps,  
11          well, we can just keep, you know, reopening or we  
12          just can keep re-arguing or we'll see what it looks  
13          like and then, you know, we'll do it.

14                      This was not a substantive wholesale,  
15          you know, new joint proposal. There was nothing, you  
16          know, that would have required that. So I -- I just  
17          want us to be very careful. So that the message is  
18          clear that once you are in agreement and finalizing  
19          on a joint proposal, that -- that unless there's some  
20          major, you know, change that would really require  
21          everybody, that would be perhaps something that we as  
22          a Commission need to also weigh in on and -- and kind  
23          of talk through before folks go back to that table.  
24          So I just want to kind of underscore that. Does that  
25          make sense?

1 6-16-2022 - Monthly Meeting - Albany, New York

2 A.L.J. SAYRE: Yes, it does.

3 COMMISSIONER BURMAN: Okay, thanks.

4 Then the other is in the order itself and -- and then  
5 I'm about to wrap up shortly. But in the order  
6 itself, it talks about the C.L.C.P.A. Obviously,  
7 there's things in here that are really aligned with  
8 the C.L.C.P.A. Tracker Order that we just did, as  
9 well as the Gas Planning Order. And so I'm -- I'm  
10 just kind of left wondering because again it -- it  
11 raises questions to me of the next steps for  
12 alignment with what's being done in the Gas Planning  
13 Proceeding.

14 Whether some of these costs are  
15 getting carried over into and tracked in the  
16 C.L.C.P.A. Tracker. How does all of this mesh and  
17 work so that the goals of both the Gas Planning  
18 Proceeding as well as the C.L.C.P.A. Tracker Order,  
19 sort of helps us to have a better handle  
20 organizationally in what we're doing rather than,  
21 again, sort of seeing this in silo.

22 And before you respond, it's not just  
23 this Order at this session that's mentioning the  
24 C.L.C.P.A. There are several orders that are raising  
25 it. But the rate cases are really our bread and

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           butter and many of the issues that are going to come  
3           out from the C.L.C.P.A. Tracker are going to come  
4           into the rate cases. So I really just want to have a  
5           handle on that.

6                       MR. ROSENTHAL: Good morning,  
7           Commissioners I'll try to answer that. So the  
8           C.L.C.P.A. Order that the Commission, you know,  
9           issued recently required two general, you know,  
10          broad, generic directives with -- with respect to  
11          future rate cases. So not specifically applicable to  
12          this rate case because it was filed prior to that  
13          Order.

14                      One relates to the Annual Emissions  
15          Inventory. So that's a process that was laid out in  
16          the C.L.C.P.A. Order regarding, you know, specific  
17          set the Commission wants in terms of an emissions  
18          inventory and a process by which the joint utilities  
19          and D.P.S. staff will come forward with a proposal to  
20          the Commission at the end of the year. I would  
21          expect then the Commission to act on that, let's say  
22          between April and June of next year. So that's one.

23                      Two is there was a specific reference  
24          in quotes to an O&R order in the C.L.C.P.A. O&R rate  
25          case. And this is C.L.C.P.A. Order, which requires

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           in -- in-- in all future rate cases again and not  
3           applicable to this one. Because it -- it came --  
4           this rate case was filed before that order was  
5           issued. An assessment of impacts of proposed capital  
6           investments and expenditures on G.H.G. emissions from  
7           its gas system. So that's going to be an analysis  
8           with O and -- it was agreed to in the O&R J.P., it's  
9           going to be required in the future.

10                       There's going to be a little bit of an  
11           interaction. I am not as familiar as Judge Sayre is  
12           with the specifics of the J.P. and so he could  
13           perhaps talk about what this particular J.P. agreed  
14           to with respect to those issues. If that generic  
15           prop -- if the proposal comes out, the Commission  
16           acts on the proposal before those issues become  
17           applicable in, you know, from the J.P. then the --  
18           the -- the order that the Commission issues in the  
19           future would supersede what was agreed to in the J.P.

20                       A.L.J. SAYRE: And this case does have  
21           an agreement to file Greenhouse Gas Emission data for  
22           a baseline as I mentioned in my -- in my briefing  
23           which have already been filed. So that's in the  
24           record.

25                       COMMISSIONER BURMAN: Right. Yeah, I

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           guess I'll just make the point that I do think it's  
3           really important that the Commission is engaged in  
4           the deliberative process on really where both the gas  
5           planning proceeding and the C.L.C.P.A. Tracker, how  
6           that is fitting, and how that has been organized in a  
7           way that it's our work product and that we're really  
8           a part of, and leading the charge on these different  
9           issues, especially as it relates to the costs and the  
10          next steps both substantively and procedurally.

11                        So I just, you know, flagging it  
12          because I do see a lot of the C.L.C.P.A. throughout  
13          the orders. And I do know that, like myself, you  
14          know, I think some parties are just sort of  
15          wondering, okay, so how does it all work. And I know  
16          that we're still kind of trying to figure it out.  
17          But it is important for us to not be on the outside  
18          looking in when the figuring out what is happening.  
19          So I flagged that.

20                       And then I do want to mention that the  
21          --.

22                       MR. ROSENTHAL: If you don't mind, let  
23          me just make a point --

24                       COMMISSIONER BURMAN: Sure.

25                       MR. ROSENTHAL: -- for all the

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           Commissioners. So there's what I divide the sort of  
3           actions that, you know, D.P.S. staff is recommending  
4           and that the Commission is taking into two  
5           categories. One is the rate cases and we're building  
6           on existing precedent in each of the J.P.'s plus what  
7           the C.L.C.P.A. Order directed the utilities to  
8           undertake.

9                               The second is that the Commission  
10          issues permits or certificates under Article 7 under  
11          Section 68. And that's going to be a very specific,  
12          you know, examination of under Section 72 of the  
13          C.L.C.P.A. concerning whether or not issuance of that  
14          certificate is consistent with the G.H.G. Emission  
15          limitations, you know, promulgated by D.E.C.

16                            So it's sort of it's a little bit of a  
17          different analysis. You're going to be -- you're  
18          going to be seeing some orders today that undertake  
19          that second analysis and that's a more direct  
20          analysis. It's -- it's -- it's very specific to a  
21          project rather than rate case.

22                            COMMISSIONER BURMAN: Okay, thank you.  
23          I am, as was said, underscoring needing to have the  
24          linkage of all that so thank you. So the other issue  
25          is the -- the underlying issue to me are that there

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           are an increasing focus on rate pressures and -- and  
3           the desire to cut rates.

4                   And also the desire to move ahead and  
5           speed up things in what we're doing policy wise, that  
6           will also again have cost implications that perhaps,  
7           are increasing while having being in some ways in  
8           conflict with this increasing issue with the  
9           increased rate pressure and this desire to cut rates.

10                   And so sadly, that can at times mean  
11           that we have to cut things like safety programs, gas  
12           safety programs in -- in this case. And I get that  
13           in the Corning situation. It's not an issue for  
14           Corning right now especially because Corning is at  
15           the end and -- and this is a positive, at the end of  
16           their Leak-Prone Pipe Replacement Program. And so  
17           very soon, this will not be an issue.

18                   And so doing this, where we use the  
19           Leak-Prone Pipe Program and the reduction in what  
20           we're asking for to help with rate mitigation is not  
21           a problem because we are not having to go to the  
22           brink on putting safety at risk because we're trying  
23           to not spend the money and to help with that.

24                   But we do need to be cognizant because  
25           what sometimes happens is we do something in one rate



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           case or proceeding and then we say well, we're going  
3           to do it, just we're cutting just like we, you know,  
4           we did in, you know, the Corning case. They cannot  
5           be looked at as an apples to apples comparison  
6           because the analysis that needs to happen is how does  
7           this overall impact the issues related to, in this  
8           case safety.

9                               And if they are not aligned the same  
10          way, in that you have more leak-prone pipe to  
11          replace, you have more leak-prone pipe issues or  
12          whatever the safety issue is, it cannot just be, well  
13          we're doing it the same way as we did in -- in the  
14          Corning matter. You know, that happened, frankly,  
15          with the Suez and the American Water issue.

16                            Perhaps you and I are familiar with,  
17          Judge Sayre in -- in how that sort of also caused an  
18          issue because they were not completely aligned, and  
19          we treated them sort of similarly and then we had to  
20          sort of reexamine that. I'm not here to relitigate  
21          that, but I do just want to flag it. Because as we  
22          go forward these safety issues cannot be sidelined to  
23          being seen as a let's just keep taking it down so we  
24          can save the costs.

25                            They've actually got, we've got to

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           make sure that we stay the course. And perhaps  
3           especially as we do a lot more infrastructure, we're  
4           going to have to even perhaps make sure that, that  
5           those issues become more paramount in -- in perhaps  
6           those are going to be the top ones we may need to put  
7           more money into. And -- and make sure that we're  
8           doing -- doing the best that we can there. So I just  
9           want to flag that. Does that make sense?

10                       Okay. And then my last issue is  
11           really addressing what I would call elephant in the  
12           room issues. There's no really natural place to  
13           discuss this issue. I'm just going to sort of tee it  
14           up now. But just sort of, kind of make it clear. I  
15           see throughout all of our session items today, and  
16           there are many, that in many ways the most important  
17           ones are the information item ones, especially as it  
18           hits on reliability.

19                       We have a lot of reliability,  
20           resiliency items on the session. And -- and some  
21           fall in the consent agenda and some fall in the, for  
22           information only item. I would implore those  
23           listeners that when we get through the voting  
24           discussion items that they still stay on the line and  
25           are in the room and listen because that really is

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           important.

3                       We have an obligation to address in a  
4           very cohesive way and collaborative way, the  
5           reliability issues that are there. It's not lost on  
6           me that Australia just suspended its electricity  
7           market. It's not lost on me that we have issues like  
8           in MISO Ohio right now is experiencing some issues.  
9           The lessons from California and Texas.

10                      And you know, for Australia, winter is  
11           here for us. I know we're looking right now at the  
12           summer, but winter is coming. And the issues that  
13           are there, really for me hitting home. And I'd like  
14           to take some time when we get to the information only  
15           items to make sure that we talk openly about  
16           reliability and how even under the C.L.C.P.A. there  
17           is a recognition that there is a large role for the  
18           P.S.C. and D.P.S. in ensuring that the backstop of  
19           reliability is there. But we cannot be an after the  
20           fact.

21                      And we really do need to have buy in  
22           from all of our partners working with the I.S.O., and  
23           Reliability Council, and all the other partners, our  
24           environmental partners as well. That threshold issue  
25           of reliability is paramount, and it is not just to be

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           brushed off. So I really want to spend time with  
3           that. So I just throw that out there.

4                       Again, there's no really good place to  
5           have that discussion. And perhaps that's an item  
6           that we need to look at as a standalone another day,  
7           but I do want to point that out. So thank you so  
8           much, Judge, I appreciate.

9                       A.L.J. SAYRE: Thank you.

10                      CHAIR CHRISTIAN: Thank you,  
11           Commissioner Burman. Commissioner Alesi?

12                      COMMISSIONER ALESI: Thank you, Mr.  
13           Chairman. I accept the recommendation and the note  
14           that the proposal resolves the rate case proposal as  
15           well as the merger proposal while leaving  
16           opportunities to resolve prior rate cases proposal.  
17           There appears to be no major opposition, and this is  
18           well within Joint Proposal Settlement Guidelines.

19                      So I'll be supportive and then saying  
20           that I'd also say that it's clear that an awful lot  
21           of diligence and hard work has gone into that. So I  
22           applaud the efforts of the staff and I thank them.

23                      CHAIR CHRISTIAN: Thank you,  
24           Commissioner Alesi. Commissioner Edwards?

25                      COMMISSIONER EDWARDS: Judge Sayre,

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           are you going to talk a little bit more about the  
3           rate case percentages or are we doing that  
4           separately, or -- or together?

5                   A.L.J. SAYRE: I did give the rate  
6           case percentages in the briefing, but I can certainly  
7           go over them again.

8                   COMMISSIONER EDWARDS: Yeah, if you  
9           could go over it in terms of the residential average,  
10          residential percentage. Rate year one, rate year  
11          two, rate year three.

12                   A.L.J. SAYRE: Yes, Commissioner. The  
13          -- for the average residential heating customer,  
14          holding the commodity rate constant, the total bill  
15          impact of the increase in the J.P. is 6.9 percent of  
16          -- of the total bill increase in year one, 7 percent  
17          in year two and 6.4 percent in year three.

18                   COMMISSIONER EDWARDS: Okay, thank  
19          you. That's the only question I have.

20                   CHAIR CHRISTIAN: Thank you,  
21          Commissioner Edwards. Commissioner Howard.

22                   COMMISSIONER HOWARD: Yes. Thank you,  
23          Judge. Can you just remind me how many retail  
24          customers Corning has, approximately?

25                   MR. ROSENTHAL: I don't have the

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           number on me. It's Bob Rosenthal. I think it's  
3           below -- it's around 20,000.

4                   COMMISSIONER HOWARD: Yeah that's --  
5           that's what I said meaning a relatively small utility  
6           in this case.

7                   MR. HOGAN: 16,000 is the answer.

8                   COMMISSIONER HOWARD: Got it. Thank  
9           you.

10                  MR. HOGAN: That's Hogan, Jeff Hogan.

11                  COMMISSIONER HOWARD: Right. And --  
12           and as well as they have some very large takers who  
13           are not part of the general retail program as well,  
14           with significant takers. So one of the things that  
15           is very clear here, this is -- this case has -- has  
16           the highest percentage bill impacts of any that I've  
17           voted on since I've been here. They're significant,  
18           they -- they will leave a mark.

19                  And one of the questions that I have  
20           you -- you made reference to flat commodity. You  
21           know, that is I -- I understand for purposes of this  
22           case that -- that wholesale commodity cost is outside  
23           of our purview. But I just want, I think it's very  
24           important for the customers of Corning to know that  
25           on top of these delivery rates the extraordinary high

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           cost of wholesale gas doesn't appear to be going away  
3           anytime soon.

4                       And that we could see real more upward  
5           pressure on costs. So that the total bill impact  
6           customers could be double digits depending on how the  
7           -- the way the world goes in the next couple of  
8           years. So I think that's very important. I think it  
9           also portends what this Commission will be deciding  
10          in the next few months and certainly the balance of  
11          2022. There are some very large percentage increases  
12          on the table now from filings from a variety of  
13          utilities. Ironically, it makes Corning look modest  
14          as it turns out.

15                      But again, I think that -- that --  
16          that issue that Commissioner Burman brought this --  
17          this pressure to keep rates solid and -- and a  
18          history of using every regulatory bag, every trick in  
19          our regulatory bag of tricks to moderate cases over  
20          the last, you know, couple dec -- last decade anyway,  
21          that those are evaporating and that it leaves the --  
22          the Commission very little room in -- in terms of,  
23          you know, curtailing rate cases in a major way  
24          roughly to the roughly what would have been a  
25          standard 2 percent per year practice.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 So again, this is a difficult vote.

3 This will cause real pain to customers. There's no  
4 doubt about it. And particularly in a very -- this  
5 is just adding to pressure on a very high  
6 inflationary period across the board for customers  
7 and again -- but that's what's going to cost to keep  
8 this system operating safe and effectively.

9 And, again, it is -- is concerning,  
10 but I don't believe we have a choice in this. And I  
11 do, given the -- the record and the number of parties  
12 who ultimately did joined in in this J.P., you know,  
13 I will be voting for it. But that doesn't mean it's  
14 not going to be difficult for many, many folks.

15 CHAIR CHRISTIAN: Thank you,  
16 Commissioner Howard. Commissioner Valesky?

17 COMMISSIONER VALESKY: Thank you, Mr.  
18 Chair. Just a few -- few quick points. First, in --  
19 in -- in relation to cost, I certainly understand and  
20 appreciate where my fellow colleagues are coming  
21 from. I just wanted to thank in response to that,  
22 though, thank the hard work on part of the staff that  
23 has resulted in this joint proposal being half of the  
24 less than half actually of the increase that the  
25 company have initially filed. So again, I think



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           that's important to note. It's a benefit to the  
3           customers and it's I think due in large part to the  
4           great work on the part of the staff.

5                       The other item on the rate case  
6           specifically without repeating everything that  
7           Commissioner Burman had said on the C.L.C.P.A. very  
8           pleased to see the requirement that the company  
9           develop the strategic decarbonization plan. Glad to  
10          hear that the Greenhouse data has already been filed.  
11          And I'll certainly be sure to look at that. I will -  
12          - and -- and -- and to Mr. Rosenthal, I want to thank  
13          you for reminding me that the -- that this rate case  
14          was filed before the C.L.C.P.A. umbrella item that we  
15          did, I believe it was just last month.

16                      That having been said, I think that  
17          was an important step that we took. And we'll be  
18          anxious as we move forward session by session to see  
19          how both rate cases and specific items that relate to  
20          certificates as you indicated Article 7 and  
21          otherwise, how that all fits together in a meaningful  
22          user friendly C.L.C.P.A. Tracker as well as the gas  
23          planning proceeding as Commissioner Burman indicated  
24          as well.

25                      Last quick point, I just want to say

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           as -- as it relates to the merger that we are  
3           considering and potentially approving today. Very  
4           much appreciate Judge Sayre, the inclusion of the  
5           ratepayer protections and safeguards. I want to also  
6           note that it includes protection of employment levels  
7           for at least a year and the extremely important issue  
8           of honoring collective bargaining agreements.

9                       So that's -- that's worth noting and -  
10          - and -- and certainly worth commending. With that I  
11          want to thank you, Judge Sayre for your presentation  
12          and your good work and the entire staff for their --  
13          for their participation. Thank you.

14                     A.L.J. SAYRE: Thank you,  
15          Commissioner.

16                     CHAIR CHRISTIAN: Thank you,  
17          Commissioner Valesky. Commissioner Maggiore.

18                     COMMISSIONER MAGGIORE: Thank you,  
19          Chair. So, you know, as Commissioner Howard said the  
20          rate increase is significant and don't I want to vote  
21          the raise people's rates. Who wants to vote to raise  
22          people's rates? But the process, that brings us to  
23          this point has been transparent, it's been  
24          participatory as Commissioner Burman pointed out  
25          nothing before these words there are few if any

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           substantive issues on the record as to why we should  
3           vote against this.

4                   As Commissioner Valesky pointed out,  
5           the rate increase is significantly less than what the  
6           company initially filed, which is not always the  
7           case. And I do believe that this rate case reflects  
8           the best deal for the ratepayer than it costs them,  
9           and I think that's due to the -- the hard work of the  
10          staff and I've raised this point before in these rate  
11          cases that if we voted this down, it is highly  
12          unlikely that the ratepayer would end up paying less  
13          or getting a better deal.

14                   So, you know, we are faced with  
15          decisions that are to be, you know, the best worst  
16          decision to make. But I -- I think that this does  
17          reflect a very, very strong work on the part of staff  
18          that that is in the best interest of ratepayers. So  
19          I'll be voting yes on -- on this Act. And Judge  
20          Sayre I just want to thank you for your presentation  
21          and all the staff for their work on it.

22                   A.L.J. SAYRE: Thank you,  
23          Commissioner.

24                   CHAIR CHRISTIAN: Thank you,  
25          Commissioner Maggiore. So I'll do the call for vote.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 My vote is in favor of the recommendation to adopt  
3 the terms of the J.P. as discussed. Commissioner  
4 Burman, how do you vote?

5 COMMISSIONER BURMAN: Yes.

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

8 COMMISSIONER ALESI: I vote yes.

9 CHAIR CHRISTIAN: Commissioner  
10 Edwards?

11 COMMISSIONER EDWARDS: I'd like to  
12 vote yes on case number 0260 for the merger and vote  
13 no on the rate portion 0394.

14 CHAIR CHRISTIAN: Okay. Thank you.  
15 Commissioner Howard?

16 COMMISSIONER HOWARD: Yes.

17 CHAIR CHRISTIAN: Commissioner  
18 Valesky?

19 COMMISSIONER VALESKY: Yes.

20 CHAIR CHRISTIAN: Commissioner  
21 Maggiore?

22 COMMISSIONER MAGGIORE: Yes.

23 CHAIR CHRISTIAN: Great. Thank you,  
24 everyone. The item is approved, and the  
25 recommendations are adopted. Judge Sayre, thank you

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           very much.

3                       A.L.J. SAYRE: Thank you.

4                       CHAIR CHRISTIAN: Okay. With that we  
5           will move on to our second item for discussion today,  
6           Item 202, Case 14-M-0565 as it relates to the  
7           implementation of the low-income arrears reduction  
8           program. This will be presented today by Aric Rider,  
9           and Alicia Sullivan who is also available for  
10          questions. Aric, would you be so kind as to begin?

11                      MR. RIDER: Good morning, Chair and  
12          Commissioners. Item number 202 before you today is a  
13          draft order recommending the Commission adopt an  
14          electric and gas arrears reduction program to  
15          eliminate arrears or unpaid utility bills that  
16          accrued through May 1st, 2022 for low-income  
17          customers. The program is simple to administer,  
18          requires no action by customers currently enrolled in  
19          a utility bill discount program, and provides  
20          immediate relief to low-income customers.

21                      This program also effectively  
22          leverages the timing and funds appropriated by the  
23          State and provides low-income customer relief not  
24          covered by the appropriation or relief programs being  
25          implemented by the New York State Office of Temporary

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           and Disability Assistance or O.T.D.A. The draft  
3           order also recommends the Commission resolve case 20-  
4           M-0479 petition of Niagara Mohawk Power Corporation  
5           doing business as National Grid for approval to  
6           implement a COVID-19 customer assistance program.

7                       And the draft order recommends  
8           National Grid use its low-income deferrals to offset  
9           its low income arrears reduction program rather than  
10          move forward with its proposed COVID-19 customer  
11          assistance program. By way of background on March  
12          7th, 2020, the Governor issued an executive order  
13          declaring a State disaster emergency and signed into  
14          law a moratorium on terminations and disconnections  
15          of residential utility services during the COVID-19  
16          state of emergency.

17                      The moratorium on terminations  
18          protected utility customers who otherwise could not  
19          afford to pay their utility bills from disconnection  
20          of their electric and/or gas service due to the  
21          financial hardship created by the COVID-19 pandemic.  
22          While the moratorium protected over a million  
23          residential customers from the loss of vital utility  
24          services, the financial impact to the utilities  
25          associated with the inability of customers to pay

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           their utility bills has been severe.

3                       The current utility arrears, which now  
4           stand at over 2.3 billion, are unprecedented. There  
5           are more than 1.15 million residential customers in  
6           arrears with respect to their electric and/or gas  
7           bills, and that the total residential arrears is  
8           almost 1.7 billion. There are more than 126,000 non-  
9           residential customers in arrears on their electric  
10          and/or gas utility bills with the -- with an arrears  
11          total of 647 million.

12                      The \$2.3 billion in total arrears  
13          amounts to -- to a 195 percent increase over the pre-  
14          COVID residential and non-residential arrears of 794  
15          million. Since the expiration of the moratorium on  
16          December 21st, 2021, some utilities have begun to  
17          resume field collection activities, and service  
18          disconnections for non-residential customers. But  
19          according to the most recent collection activity  
20          reports, there have been few service disconnections  
21          for residential customers.

22                      To further protect the most vulnerable  
23          low-income customers, the major electric and gas  
24          utilities or joint utilities have committed to staff  
25          of the Department of Public Service in writing that

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           they will pause disconnections of low-income  
3           customers through September 1st, 2022 with an  
4           understanding that the intervening time would be used  
5           to address the low-income arrears problem.

6                       On September 29th, 2020 National Grid  
7           submitted a petition requesting Commission approval  
8           to distribute bill credits to customers enrolled in  
9           National Grid's low-income bill discount program, and  
10          to non-residential business customers who have been  
11          impacted by the COVID-19 pandemic. Through this  
12          proposed program, Nat -- National Grid saw approval  
13          of funding up -- through up to \$50 million in  
14          customer credits that have been accrued through over-  
15          collection of National Grid's low-income bill  
16          discount and economic development programs.

17                      Since National Grid's petition  
18          coincides with the purpose of this draft order, the  
19          petition is being addressed in the draft order via a  
20          statewide low-income arrears reduction program which  
21          the company participated in preparing. On August  
22          12th, 2021, the Commission issued an order adopted --  
23          adopting modifications to its energy affordability  
24          policy.

25                      The August 2021, order specified that



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           any recommendations focused on COVID-19 relief for  
3           ratepayers would be addressed in a future Commission  
4           order. The August 2021, order directed staff to  
5           establish an E.A.P. working group to address multiple  
6           issues including the growing utility arrears problem.

7                       On September 28th, 2021 staff  
8           assembled the E.A.P. working group, which includes  
9           the joint utilities, the New York State Department of  
10          State Utility Intervention Unit, the New York State  
11          Energy Research and Development Authority, O.T.D.A.,  
12          PSEG Long Island, the Long Island Power Authority or  
13          LIPA, the Public Utility Law Project, the New York  
14          City Human Resource Administration, the City of New  
15          York, the Association for Energy Affordability,  
16          C.M.C. Energy Services, New York Municipal Power  
17          Agency, American Associated -- Association of Retired  
18          Persons of New York, Alliance for a Green Economy,  
19          Citizens for Local Power, Oracle, and Green and  
20          Healthy Homes Initiative.

21                      Since establishing the E.A.P. working  
22          group, staff has met with the E.A.P. Working Group on  
23          a bi-weekly basis with the focus of discussions on  
24          adopting potential solutions regarding several key  
25          issues, including identification of low-income

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           customers through data sharing and file matching  
3           between the joint utilities and O.T.D.A., Enhancement  
4           of self-certification mechanisms, and the development  
5           of an arrears management program to address the  
6           increase in customers with arrears resulting from  
7           COVID-19 pandemic.

8                         The Governor and Legislature have  
9           sought over the last two legislative sessions to  
10          address the continued growing -- growth in arrears  
11          through adoption of three new programs. The fiscal  
12          year 2021-2022 State budget included the Emergency  
13          Rental Assistance Program or ERAP, an income-based  
14          relief program that is being implemented by O.T.D.A.  
15          O.T.D.A. is -- O.T.D.A. also provided an enhancement  
16          to its existing Home Energy Assistance Program or  
17          HEAP, which it describes as the regular arrears  
18          supplement or RAS benefit.

19                        The ERAP, HEAP, and RAS programs all  
20          require the utility customers to file an application  
21          with O.T.D.A. or local social services providers to  
22          determine eligibility. The fiscal year 2022-2023  
23          State budget includes additional funds to support  
24          ERAP and are being applied to the backlog of  
25          applications. The 2022-2023 State budget also

1           6-16-2022 - Monthly Meeting - Albany, New York  
2 includes an appropriation of 250 million to reduce  
3 arrears for all residential customers of gas and  
4 electric corporations regulated by the Commission,  
5 municipal -- municipal utilities, and LIPA and its  
6 service provider.

7                       The Department was charged to  
8 establish an arrears reduction program in a manner  
9 that prioritizes the allocation of funds to customers  
10 eligible for an energy affordability program, which  
11 includes the Commission's energy affordability policy  
12 bill discount program, ERAP, HEAP, and RAS -- RAS  
13 programs. The \$250 million appropriation targets  
14 arrears reductions for those customers that have  
15 accumulated from March 7th, 2020 through March 1st,  
16 2022.

17                      The monies appropriated are to be  
18 dispersed first on behalf of residential energy  
19 affordability program customers of the utilities, the  
20 municipalities, and LIPA based on each such entity's  
21 proportional share of Statewide eligibility --  
22 eligible utility arrears as determined by the  
23 Department. The Department is tasked with ensuring  
24 that the monies from the appropriation are  
25 supplemental and not duplicative of funds available

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           from other programs and are dispersed in a timely  
3           manner but no later than August 1st, 2022.

4                   The E.A.P. Working Group filed an  
5           arrears report on May 23rd, 2022, which proposes to  
6           address arrears in two steps. Phase One, to address  
7           all existing low-income customer arrears and Phase  
8           Two, which is in progress to adopt a broader program  
9           focused on arrears management for residential  
10          customers and non-residential customers that do not  
11          meet the definition of low income. The draft order  
12          before you today addresses Phase One arrears report  
13          recommendations.

14                   All E.A.P. Working Group stakeholders  
15          are supportive of the Phase One recommendations.  
16          Stakeholders recognize the need to as a first step  
17          ensure that the State's \$250 million budget  
18          appropriation be dispersed in a timely manner. Also,  
19          the stakeholders agree that Phase One is acceptable  
20          regarding bill impact levels while supporting those  
21          low-income customers who qualify for the arrears  
22          reduction program.

23                   All stakeholders are also supportive -  
24          - are prioritizing continued discussion on a Phase  
25          Two arrears solution for non-low-income customers.

1           6-16-2022 - Monthly Meeting - Albany, New York

2           The draft order explains that the total arrears held  
3           by low-income residential customers from March 7th,  
4           2020 to March 1st, 2022, or the statutory timeframe  
5           is approximately 435 million greater than the \$250  
6           million appropriation.

7                       After application of the  
8           appropriation, there would remain \$185 million  
9           shortfall between the amount appropriated and the  
10          total arrears held by low-income customers over the  
11          March 7th, 2020 to March 1st, 2022 statutory  
12          timeframe. Moreover, there is a larger arrears total  
13          held by low-income customers for the periods that  
14          precede and succeed the statutory timeframe.

15                      Specifically, there is an additional  
16          \$152 million in arrears held by low-income customers  
17          for the period ending May 1st, 2022, meaning that the  
18          total amount of arrears held by low-income ratepayers  
19          on or before May 1st, 2022, currently stands at 587  
20          million. The draft order recommends adoption of the  
21          Phase One program to address as close as possible the  
22          entirety of the 587 million in arrears held by low-  
23          income ratepayers in order to provide those customers  
24          with a fresh start, or more affordable deferred  
25          payment agreements, thus minimizing to the maximum

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           extent practicable, any disconnection of service.

3                       To accomplish this goal, the draft  
4           order recommends a one-time credit be funded through  
5           the following steps. First, through application of  
6           any relief available from the O.T.D.A. administered  
7           programs. Second, from the funds provided to the  
8           utility through its contract with the Department  
9           pursuant to the budget appropriation. And third,  
10          through ratepayer funds to address the remaining  
11          arrears balance.

12                      The draft order applies to step three  
13          only and to utilities that the Commission has  
14          jurisdiction. Importantly, the draft order  
15          acknowledges that O.T.D.A. is conducting proactive  
16          steps to identify more low-income customers to  
17          participate in the utility bill discount programs.

18                      O.T.D.A. expects to provide the  
19          utilities an enhanced file match in June 2022 to  
20          conduct targeted -- and conduct targeted letter  
21          campaign to low-income customers outside of New York  
22          City enrolled in the Supplemental Nutrition  
23          Assistance Program that may not be included on the  
24          file match to allow these customers to use a letter  
25          to self-certify with their utility to enroll in the

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           utility's bill discount programs.

3                       The draft order recommends any low-  
4           income customer newly enrolled in the utility's bill  
5           discount programs by the end of calendar year 2022,  
6           would automatically become eligible for the Phase One  
7           program. In order to ensure that utilities first  
8           utilize other available funding sources, and to  
9           prevent duplication of benefits for residential  
10          customers, O.T.D.A. agreed to use best efforts to  
11          provide the utilities with a list of pending ERAP  
12          applications by June 15th, 2022, so that the  
13          utilities can 1) hold -- put on hold the account to  
14          prevent termination of utility services while the  
15          O.T.D.A. application is pending.

16                      And 2) proactively communicate with  
17          these customers, that 1) they have a pending O.T.D.A.  
18          ERAP application, 2) their utility arrears reduction  
19          credit will be applied after an ERAP eligibility  
20          determination has been made, 3) their service will  
21          not be disconnected while the ERAP application is  
22          pending, and 4) they should continue paying bills for  
23          service after May 1st, 2022 because the arrears  
24          assistance will not cover bills for service after May  
25          1st, 2022.

1           6-16-2022 - Monthly Meeting - Albany, New York

2                       The draft order recommends these  
3       customer accounts be excluded from receipt of any  
4       Phase One arrears credits and protected from  
5       terminations for non-payment while their ERAP  
6       payments are processed. After pending ERAP payments  
7       are applied to customer accounts, the utilities will  
8       then process Phase One credits for any remaining  
9       arrears. So ERAP funds are utilized to resolve  
10      customer arrears before any application of Phase One  
11      arrears credits.

12                    The draft order estimates that the  
13      ratepayer cost of reducing arrears held by low-income  
14      customers through May 1st, 2022, is approximately 281  
15      million after application of funds from the \$250  
16      million appropriation. This estimate, however,  
17      excludes any future ERAP payments or tax payment --  
18      credits from the O.T.D.A. administered programs. The  
19      joint utilities took the position that given the  
20      extraordinary impact of COVID-19 pandemic on utility  
21      customers, they have committed shareholder  
22      contributions totaling 36.236 million.

23                    The draft order recommends that  
24      utility shareholders have contributed sufficiently  
25      towards Phase One relief. Moreover, the draft order



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           recommends that the remaining arrears to be -- are to  
3           be addressed in Phase Two are also significant. The  
4           draft order notes that material shareholder  
5           contributions from utilities will be necessary  
6           towards reaching a resolution regarding those  
7           arrears.

8                       The draft order specifies that the  
9           ratepayer funded portion of the Phase One plan would  
10          be collected by each utility and participating  
11          municipality via a surcharge effectuated by a tariff  
12          filing. The draft order recommends a surcharge  
13          recovery period between one and five years depending  
14          on the utility to keep the total customer bill  
15          impacts to one-half of a percent.

16                     The draft order acknowledges that a  
17          coordinated effort is necessary to ensure the maximum  
18          number of customers will benefit from the Phase One  
19          program. The outreach and education channels include  
20          bill inserts, letters, social media, and postings on  
21          individual websites and will build upon the joint  
22          utility self-certification outreach and education  
23          updates filed with the Commission earlier this year.

24                     The draft order recommends regular  
25          reporting by the utilities for staff and stakeholders

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           to monitor the arrears reduction program. Moreover,  
3           with a significant number of New Yorkers unable to  
4           pay their utility bills and arrears at unprecedented  
5           levels, it is critical that staff be able to be more  
6           closely monitor the impacts of the pandemic and the  
7           programs to assist low-income customers.

8                       The draft order, therefore, recommends  
9           the timing of low-income activity reports be revised  
10          from quarterly to monthly similar to the timing of  
11          filing of the standard collection activity reports.  
12          The draft order recognizes National Grid's initiative  
13          in proposing a part -- a partial arrears solution  
14          early in the pandemic. However, the draft order  
15          recommends a Statewide approach to providing relief  
16          to low-income customers rather than a utility by  
17          utility specific program.

18                      The draft order therefore recommends  
19          the \$25 million low-income deferral be used to  
20          decrease the amount to be recovered from National  
21          Grid customers. And then the use of National Grid's  
22          economic development deferral be considered in Phase  
23          Two. In conclusion, managing the utility arrears  
24          held by the State's most vulnerable customers is an  
25          important step towards addressing the financial harm

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           brought on by the COVID-19 pandemic.

3                       Eliminating arrears that accrued  
4           through May 1st, 2022 for low-income customers  
5           provides much needed relief, including from the most  
6           recent bill surge and commodity pricing, avoids the  
7           need for utility collection activities, and lowers  
8           the risk of disconnection of essential services. The  
9           arrears reduction program is simple to administer and  
10          requires no action by utility -- by low-income  
11          customers currently enrolled in a utility low-income  
12          bill discount program.

13                      The program is also effectively  
14          leverages the timing of and funds appropriated by the  
15          State and provides additional relief to low-income  
16          customers not covered by the State or O.T.D.A.  
17          administered programs. The draft order recognizes  
18          that additional work is being undertaken in the  
19          E.A.P. working group to address non-low-income  
20          residential and non-residential customer arrears.  
21          And that -- that work must be done expeditiously.

22                      I want to thank the staff team and the  
23          entire E.A.P. working group for their tireless work  
24          on these cases. That concludes my presentation and  
25          staff is available for questions.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 CHAIR CHRISTIAN: Thank you, Aric. I  
3 know a lot of work and time went into this, so I want  
4 to commend you and Alicia, for all the effort to get  
5 us to this point today. I mean, with over 1.7  
6 billion in utility arrears so far, you know, this  
7 couldn't come soon enough. And I think what's really  
8 important about this is we're addressing the needs of  
9 those with the most urgent and dire needs now, while  
10 establishing a framework that could potentially be  
11 used for Phase Two later on.

12 I do want to ask you a question about  
13 the bill impact. And just to make sure I'm  
14 understanding, you mentioned that the bill impact to  
15 ratepayers of this action would be point five  
16 percent, half of one percent.

17 MR. RIDER: That's correct.

18 CHAIR CHRISTIAN: So it's safe to say  
19 that without this action, the ratepayer -- without  
20 the funds from the State and the shareholder  
21 contributions, that ratepayer impact would be doubled  
22 for these customers, correct?

23 MR. RIDER: It'd be -- would be much  
24 higher, yes.

25 CHAIR CHRISTIAN: Yeah. Okay. So --

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           so again, thank you for your work in putting this  
3           together and bringing this forward. This couldn't  
4           come soon enough, so thank you. With that,  
5           Commissioner Burman?

6                       COMMISSIONER BURMAN: Thank you. And  
7           I appreciated your question to Mr. Rider. I do have  
8           a question on the E.A.P. working group and I'm  
9           looking at it. And how do we determine who's in the  
10          working group? And have we looked at for Phase Two,  
11          who else may need to be in there?

12                      MR. RIDER: So when staff established  
13          the E.A.P. working group, it invited all  
14          stakeholders. And -- and no party is excluded from  
15          participating. We have been very transparent and  
16          open about when meetings occur, and they occur on a  
17          regular cycle. So any -- anybody that wants to  
18          attend can.

19                      COMMISSIONER BURMAN: I guess I would  
20          just ask that we do, you know, -- we have not just at  
21          D.P.S. and P.S.C., but we do have throughout the  
22          State a lot of different working groups that it's  
23          sort of -- I -- I've lost track. This one is one  
24          that I haven't lost track of. It's an important one.

25                      But I would like us to kind of look

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           at, are there folks at the table -- not -- folks that  
3           are not at the table that perhaps should be  
4           especially as when we look at Phase Two, some of the  
5           issues are relating to economic development funds and  
6           perhaps we need to make sure that we are clearly  
7           inviting in, not just opening it up and saying you  
8           can come if you want, but really making sure that we  
9           have critical technical and substantive expertise  
10          that can help us as we move forward.

11                        So just you know, food for thought, it  
12          is important to me that all of our working groups  
13          really have -- we can really point to that it's -- we  
14          have carefully looked at who's at the table and  
15          contributing that can help in this way. The other  
16          issue I just would like -- you know, initially when I  
17          read this item with the two items that are also here,  
18          items 266 and 267, which are also there, the  
19          alternative recovery mechanism items, and they're  
20          looking at the late payment charges, charged revenues  
21          related to COVID.

22                       And initially, I was trying to grapple  
23          with were they aligned, and how did they fit? I  
24          think it was helpful explanation that I got in terms  
25          of how they were linked, and why it made sense. Is

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           there a way that -- could you share sort of that  
3           philosophy because I think it was important?

4                       MR. RIDER: Sure. So items 266 and  
5           267, are the late payment recovery items. They allow  
6           National Grid, NYSEG, and RG&E to recover revenues  
7           that were not assessed during the COVID-19 pandemic,  
8           because of an executive order and the change in law.  
9           This ultimately was -- was used to protect customers.  
10          And -- and due to that change in law, the companies  
11          really have a right to recover those revenues from --  
12          because there's provisions in the rate plans that --  
13          that allow that -- that recovery.

14                      Notably, in those cases, each company  
15          has voluntarily agreed to provide some shareholder  
16          relief to offset the low-income arrears programs.  
17          And those -- those dollar amounts have been reflected  
18          in the arrears items. So the -- we think the  
19          contributions are meaningful and -- and that's really  
20          how those two -- these items are linked.

21                      COMMISSIONER BURMAN: Great, thank  
22          you. I think that's very helpful. And then the  
23          other is, obviously, we're -- we're looking at not a  
24          full of being done here. And so this is really one  
25          aspect looking to get the monies out the door.

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           Clearly, we're going to need to look at more funding  
3           and the next phase of how that works, but also in  
4           understanding that the rate impacts or the funding  
5           issues are really important and -- and we have to be  
6           mindful of that.

7                         Why should we today be doing this and  
8           not all the others? And can you just explain a  
9           little bit for you know, at least your thoughts on  
10          that?

11                        MR. RIDER: Yeah, sure. So maybe I'll  
12          start with -- with you know, Phase Two and some of  
13          the issues that the E.A.P. working group are -- are  
14          dealing with and you know, one of the issues is the  
15          structure of relief. There's many ideas in the  
16          working group that could range from a bill credit to  
17          a specific program that has the -- the customers take  
18          action and -- and based on that action and payments,  
19          there may be reductions to their -- their bill, but  
20          that adds complexity.

21                        There could be some I.T. changes that  
22          may be needed and -- and the E.A.P. -- E.A.P. working  
23          group has to understand how that all fits together.  
24          The E.A.P. -- E.A.P. working group must also consider  
25          the cost of the solution. There ultimately could be



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           a bill impact to customers and -- and also with that  
3           you know, an issue has been, you know, what are  
4           shareholders contributing to this -- to the solution.

5                       And there's also an interplay between  
6           the type of relief that's -- that's proposed and the  
7           inner workings of the utilities' rate plans. And we  
8           want to make sure there's no unintended consequences  
9           by providing such relief, and then having you know,  
10          an unintended consequence you know, fallout from that  
11          potential relief. So we have to understand all that.

12                      We're working through those issues as  
13          -- as quickly as we can. But in terms of the -- of a  
14          phased approach, we didn't want to miss the  
15          opportunity to take advantage of the State's  
16          appropriation. We thought it was important that  
17          customers receive relief in one time. It's easier to  
18          administer, it's easier to explain to customers, and  
19          it's in lieu of like multiple phases of relief.

20                      MR. ROSENTHAL: Let me add one more  
21          thing, which is that the -- the -- the actual  
22          appropriation is pursuant to a program called the  
23          Utility Arrears Reduction Program. There's a lot of  
24          conditions in that program. The biggest one is it  
25          specifies that the \$250 million has to be prioritized

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           to -- to low-income ratepayers, number one. Number  
3           two, the money actually has to go out the door, I  
4           believe it's by August 1st.

5                       And so we were under -- D.P.S. staff  
6           was under a big time constraint to you know, -- to  
7           draft and get agreement on contracts with all the  
8           utilities, which we've done. Those contracts are now  
9           undergoing Office of Comptroller review, an A.G.  
10          review, which is going to take time. So we really  
11          didn't have a lot of time here to get it to this  
12          Commission by June.

13                      From the -- that appropriation, we  
14          engaged in five weeks' worth of negotiations to get a  
15          final resolution that we could then put a final  
16          proposal, that we could then -- be -- put before the  
17          Commission for a vote. So the -- the only way we  
18          could possibly do that was through a phased approach.

19                      COMMISSIONER BURMAN: Thank you. I  
20          support the phased approach in -- in -- in the way  
21          that you've explained it. It makes me feel very  
22          comfortable in how things have progressed and explain  
23          some of the disconnect, and also the next steps,  
24          which are really important. I do want to take a  
25          moment of personal privilege and just thank both Aric

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           and Alicia, both of you have internally been part of  
3           our mentoring program and it's really, I think, very  
4           helpful. And there's no other way of saying it  
5           publicly.

6                       So since you're both there I felt I  
7           would take that opportunity. But it really also  
8           shows in sort of this item and the way it's been  
9           coordinated with staff, with both of you really  
10          helping to lead on these issues, it's -- for me makes  
11          me feel very comfortable. So thank you both, not  
12          only for your mentoring roles, but also clearly the  
13          substantive collaboration that's been here. So thank  
14          you.

15                      CHAIR CHRISTIAN: Thank you,  
16          Commissioner Burman. Commissioner Alesi?

17                      COMMISSIONER ALESI: Thank you, Mr.  
18          Chairman. I -- I enthusiastically support the  
19          arrears reduction program using a blend of State and  
20          ratepayer funds to be administered by the major  
21          utilities. And I also embrace a similar optional  
22          concept to assist municipalities and I fully support  
23          this as a Statewide, universal effort rather than a  
24          piecemeal approach by individual providers.

25                      And I would note that by taking

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           positive actions today, we can help provide timely  
3           assistance for those in need, as well as a fresh  
4           start for that. So I will be supporting this and  
5           those are my comments. Thank you very much.

6                       CHAIR CHRISTIAN: Thank you,  
7           Commissioner Alesi. Commissioner Edwards?

8                       COMMISSIONER EDWARDS: Yes, thank you  
9           very much. Aric, I have a couple of questions and  
10          then I have some comments. So for Phase Two, when is  
11          the working group expected to come back with a plan?  
12          And is it a plan or I think if I read, it's either a  
13          plan or an update report. So if you could clarify  
14          the date, and what is in that?

15                      MR. RIDER: So in the rear -- arrears  
16          report, there isn't a specific date. But my  
17          expectation is that we would have something a) as  
18          soon as possible, but b) if I had to -- to guess I  
19          would try to shoot for September.

20                      COMMISSIONER EDWARDS: Okay, so just  
21          to clarify in the May arrears report on page 26 it  
22          says September 1st. So if you could just clarify --  
23          you don't have to do it right this -- right now. But  
24          it does say September 1st, to either come back with a  
25          plan or an updated report.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 MR. RIDER: Okay, yeah --

3 COMMISSIONER EDWARDS: Okay.

4 MR. RIDER: -- yeah.

5 COMMISSIONER EDWARDS: Okay. How many  
6 customers are in Phase One and how many potential  
7 customers are in the Phase Two?

8 MR. RIDER: So if you look at the  
9 arrears report in attachment A you know, prior to the  
10 pandemic, there were 893,735 residential customers in  
11 arrears. And of those customers, there were 297,151  
12 low-income customers in arrears. That attachment  
13 also shows as of April 2022 the arrears has grown for  
14 all residential customers to 1,151,442. And of that  
15 -- of those customers, 327,159 were low-income  
16 customers, but also importantly, to note that -- that  
17 -- that those tables are only for the joint utilities  
18 and not for PSEG Long Island or the municipalities.

19 So the -- the targeted relief in the -  
20 - this draft order is focused on the 327,159 at least  
21 low-income customers. And if you in theory, do math,  
22 subtracting the 1,151,441 less the 327,159 you would  
23 have in Phase Two, we would address arrearages for  
24 around 825,000 residential customers.

25 COMMISSIONER EDWARDS: Okay. Thank

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           you. And I want to thank Commissioner Burman for her  
3           question about why not Phase Two. So what I wrote  
4           down is the structure, it could provide for I.T.  
5           changes, cost solution, you want to make sure that  
6           there's no unintended consequences, and that the  
7           State appropriation had to be completed by August  
8           1st. Is there anything else -- is there any  
9           legislative action or additional funding that has to  
10          be acquired in order for Phase Two to be implemented?

11                   MR. RIDER: I'm not aware of any other  
12          additional funding that's -- that's out there, we  
13          would welcome it. But there's none to my knowledge.

14                   COMMISSIONER EDWARDS: Okay. And you  
15          have mentioned in your comments, I believe that there  
16          is a commitment by the utilities not to terminate any  
17          customers, low-income customers until September 1st.  
18          Is there any comment by any of the utilities about  
19          those customers that are included in Phase Two of the  
20          825 customers -- 825,000 customers?

21                   MR. RIDER: We -- we don't have an  
22          agreement with utilities -- a commensurate agreement  
23          with utilities for all other residential customers.  
24          But I would note that the -- the latest arrears  
25          report that I've seen, there have been very few

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           residential terminations by the -- by the utilities.

3                   COMMISSIONER EDWARDS: But there isn't  
4           anything in writing that says what's going to happen  
5           with any of those customers before Phase Two is  
6           developed?

7                   MR. RIDER: No.

8                   COMMISSIONER EDWARDS: Okay. The  
9           targeted letter that's going to be developed, with  
10          O.T.D.A. and the utilities, will we be able to get a  
11          copy of those targeted letters?

12                  MR. RIDER: Of course.

13                  COMMISSIONER EDWARDS: Okay. So I --  
14          I'm very concerned about Phase Two. I absolutely  
15          understand and agree that this should have  
16          prioritized low-income customers. But just -- I  
17          wrote down a couple of things that you said in your  
18          comments that -- and I absolutely agree with you that  
19          we are in unprecedented times, and we have 195  
20          percent increase of arrears.

21                   And while there are very few service  
22          disconnections, my concern is that we have not  
23          provided enough of a safety net for the 825  
24          residential customers or small business customers  
25          between now and when Phase Two is going to be

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           implemented. The working group was charged with  
3           addressing this in two steps, one is for low-income  
4           customers, but also to adopt a broader program.

5                       I appreciate that all stakeholders are  
6           supportive of prioritizing continued discussion on  
7           Phase Two. But we are not at the point right now to  
8           articulate what's Phase -- Phase Two is going to be.  
9           And if I read a couple of things in the draft order  
10          or comments from the working group themselves, it  
11          said that stakeholders expressed an urgency for Phase  
12          Two implementation but generally agree that that an  
13          arrears reduction solution requires further study.

14                      The Phase Two report for the  
15          Commission that low income relief constitutes  
16          approximately 24 percent of the total customer  
17          arrears and without action for the remaining arrears.  
18          Those customers will not be able to manage a large  
19          balance that accrued over the pandemic. Such an  
20          outcome would lead to years of payment defaults,  
21          terminations, and reconnections that would adversely  
22          affect the State's economy, as well as the rate  
23          increases due to increase of uncollectible expenses.

24                      A couple of good points that were  
25          included in the comments spoke to and -- speak to the



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           need for more low-income programs. But it has not  
3           been addressed in this order, because it is yet to be  
4           developed. And my -- my reservation with this is  
5           that I -- I truly support and agree that low-income  
6           customers are most -- most vulnerable New Yorkers  
7           should be prioritized.

8                       My concern -- and which is why I  
9           cannot support this is that my -- my reservation and  
10          my no vote is not about what's been done. It's about  
11          what has not yet to be done. 825,000 customers, even  
12          if you go with 40,000, could potentially lose their  
13          service between now and when Phase Two is completed.  
14          So although that there have been few disconnections,  
15          there's nothing in writing that says that they can be  
16          put in a pause until Phase Two has been developed and  
17          implemented. And that is what my concerns are.

18                      You know, we -- we definitely are in  
19          unprecedented times. And there are hundreds of  
20          thousands of people that don't qualify for low-  
21          income, but they are still in fact, struggling. The  
22          low -- low to middle income, middle class, small  
23          businesses, you know, customers that had a really,  
24          really tough time. And under this plan, if I  
25          understand it correctly, they may enter into a

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           deferred payment agreement.

3                       But I will suggest to you that many of  
4           them are signing up for deferred payment agreement  
5           that require them to pay hundreds of dollars on top  
6           of their current bill. And that's before they can go  
7           get gas in their tank,, and food on the table and  
8           anything else that is going to be required for them  
9           to survive. So my -- my reservation with this is  
10          that the -- the White Paper charged for adoption of  
11          an arrears management program, and I don't think that  
12          we have cared for all of it.

13                      I understand the rationale, I  
14          understand the reasons, but I can't support not  
15          having a safety net for 825,000 people. If there is  
16          something more to be said, until we develop Phase  
17          Two, we will pause, and those customers will not be  
18          disc -- disconnected I will be in. But unless you  
19          can tell me that, I'm going to vote no. That's my  
20          comments.

21                      CHAIR CHRISTIAN: Thank you,  
22          Commissioner Edwards. Commissioner Howard?

23                      COMMISSIONER HOWARD: Yeah, thank you.  
24          I'm going to go to the -- the nice part first. You  
25          two guys have -- two people, Alicia and Aric have

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           been -- to say that you have been tenacious would be  
3           a giant understatement. And this has been going on  
4           for a period of nearly 18, 20 months, particularly in  
5           relation to your advocacy on the implementation of  
6           the ERAP program, as it relates particularly to  
7           utility customers.

8                       To say that the ERAP program was  
9           clunky, is a generous statement. And I applaud you,  
10          and staff, and those too who had to make sure that  
11          how we could make this new appropriation of \$250  
12          million and associated utility funds go as quickly  
13          into, and as easily to these very distressed  
14          customers, many of whom have a difficult time on the  
15          best of days, managing the way of the world,  
16          particularly accessing public assistance on a variety  
17          of levels, and particularly those who have never been  
18          in the public assistance program before.

19                      But circumstances of the last two  
20          years move them into that category. And to that  
21          extent, the -- the -- you should be wildly commended.  
22          Just to reiterate, in terms of where cash could come  
23          from, to take care of utility arrears programs,  
24          correct me if they're wrong, there is appropriations  
25          from the government, either at the federal or State

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           level, writing off of debt by utility shareholders,  
3           or charging the balance of the rate base more to pay  
4           for those customers who aren't paying. Is that  
5           correct?

6                       MR. RIDER: Correct.

7                       COMMISSIONER HOWARD: So one of those  
8           sources of funding to \$250 million, by all measure is  
9           a one off. We have no idea whatsoever, whether the  
10          legislature in their wisdom, or the Congress in their  
11          wisdom will provide more monies. Is that correct?

12                      MR. ROSENTHAL: That's correct. Let  
13          me just make one point though. We -- one thing we  
14          wanted to show the legislature is that if they  
15          appropriate money to the Department for a specific  
16          purpose, we're going to get that done really quickly  
17          --

18                      COMMISSIONER HOWARD: Well, you know,  
19          again --

20                      MR. ROSENTHAL: -- we didn't need  
21          weeks.

22                      COMMISSIONER HOWARD: -- again, and  
23          that's why I -- I started my comments by the can-do  
24          nature of our staff in developing a program that was  
25          quick, transparent, and easy to access for customers.

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           Because we did not start as a State making those  
3           programs easy to access, and the like. And I do  
4           believe that our Department's advocacy, particularly  
5           with O.T.D.A. has changed their attitude and -- and  
6           made them move. And to that extent, I -- I thank you  
7           very much.

8                       I have a question regarding -- and  
9           this is to you, Bob. I -- I note that the Governor  
10          just renewed her emergency powers under the COVID  
11          orders. Is that correct?

12                     MR. ROSENTHAL: Yes.

13                     COMMISSIONER HOWARD: So if the  
14          Governor wanted to produce another executive order,  
15          freezing disconnects, would she be empowered to do  
16          that?

17                     MR. ROSENTHAL: She would be.

18                     COMMISSIONER HOWARD: Okay. The  
19          second thing that is -- is abundantly clear here that  
20          we have started down the road of a new, and I believe  
21          ultimately permanent entitled program -- program,  
22          that the amount of money that low-income folks are  
23          going to pay -- need to pay to maintain energy  
24          utilities is far eclipses the -- the ability of them  
25          to pay and that in next -- in subsequent State

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           budgets that we will need more cash in order to -- to  
3           pay this because the only other alternative is  
4           potential significant rate increases, correct?

5                       MR. ROSENTHAL: It's -- it's correct  
6           and it's also important for people to understand we -  
7           - we -- we are -- we're the Public Service  
8           Commission, we're limited.

9                       COMMISSIONER HOWARD: No, I -- I got  
10          that.

11                      MR. ROSENTHAL: Right, we're limited,  
12          it's ratepayers, that's -- that's where the Public  
13          Service Commission you know, through which its -- its  
14          programs are implemented it's -- it's solely through  
15          ratepayers.

16                      COMMISSIONER HOWARD: Correct. And --  
17          and to the question. Can you give me the legal -- I  
18          understand that the utilities are -- are using  
19          shareholder dollars to the tune of \$36 million in  
20          this program. Is there any legal obligation that  
21          they do that?

22                      MR. ROSENTHAL: There's no legal  
23          obligation that they do that.

24                      COMMISSIONER HOWARD: And are they  
25          entitled to every dollar of these uncollectables?

1 6-16-2022 - Monthly Meeting - Albany, New York

2 MR. ROSENTHAL: They're not entitled  
3 to every dollar with the uncollectables.

4 COMMISSIONER HOWARD: Is there an  
5 assumption that if they sell and deliver product that  
6 it will be paid for to them?

7 MR. ROSENTHAL: You'd have to ask them  
8 for that. But you know, it's like any other -- you  
9 know, they're companies, they're with -- with  
10 shareholders just like any other shareholder company.

11 COMMISSIONER HOWARD: Got you. And --  
12 and in regard to Phase Two, if there are no  
13 additional public monies available to pay for this  
14 next group of customers, what are the options in  
15 terms of securing enough cash to extend benefits to  
16 more customers?

17 MR. RIDER: I think the options would  
18 be from shareholders and ratepayers.

19 COMMISSIONER HOWARD: Got you. And we  
20 -- we would assume that that same ratio may occur you  
21 know, 36 towards 500 and change. You know, is that -  
22 - is that a ballpark of what we could expect  
23 potentially going forward?

24 MR. RIDER: I'd -- I'd hate to predict  
25 the future, but you know, I -- I think it depends on

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           the -- the type of program that is -- is recommended,  
3           and the balance that strikes with all of the other  
4           provisions in -- in the solution.

5                   COMMISSIONER HOWARD: Great. You  
6           know, in the order that ConEd is -- and ConEd has the  
7           largest number of customers that will be eligible to  
8           participate in this program of the 500 and some  
9           million dollars do you know how much money will go to  
10          ConEd's customers?

11                   MR. RIDER: Oh, well. Thanks, Alicia.  
12          So in the draft order, Appendix A shows ConEd's  
13          arrears through May 1st, 2022 at 339 million.

14                   COMMISSIONER HOWARD: That's -- that  
15          they will recover from this program?

16                   MR. RIDER: Well, that's the relief  
17          that will be provided.

18                   COMMISSIONER HOWARD: Right, okay 339  
19          million.

20                   MR. RIDER: There's -- and -- and it  
21          comes in a number of buckets. 167 million will be  
22          allocated or 164 million will be allocated from the -  
23          - the appropriation, there's \$7 million in  
24          shareholder funds. And then the remaining is through  
25          ratepayer.



1 6-16-2022 - Monthly Meeting - Albany, New York

2 COMMISSIONER HOWARD: Yeah, I find it  
3 ironic that New York City just concluded their  
4 budget. And at no time, do they change anything on  
5 energy taxes. And of that 300 and some million  
6 dollars that will go to ConEd, a quarter of that  
7 ultimately is going to the City of New York. And  
8 through this budget, there were -- I do not believe  
9 there was any new energy affordability programs, no  
10 earmarking of these tax collections to certain  
11 populations, they are just general revenue taxes.

12 So I would submit, particularly for  
13 those ConEd customers in New York, their -- their  
14 money could have gone a lot farther, we could have  
15 done a lot more if we had just taxed less. And --  
16 you know, so that -- that is my ongoing mantra. And  
17 again, in terms of energy affordability, particularly  
18 for the City of New York, the first place to look at  
19 is the tax code.

20 Again, I just really want to thank you  
21 guys. And I don't know if this would have been  
22 possible without actually you guys, not just in  
23 general. And also I do want to express my thanks to  
24 Executive Deputy Congdon, for his advocacy throughout  
25 this, and particularly in our budget negotiations.

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           And I certainly want everyone in the world to know  
3           that this Department's position was a lot more than  
4           \$250 million was going to be necessary.

5                       And -- and I think through our broader  
6           advocacy, we got the 250, which is a lot, but I think  
7           we will need more in the future. And again, and I'm  
8           counting on your guys' advocacy to help move that  
9           along. So thank you very much.

10                      MR. ROSENTHAL: Here, let me just make  
11           one more -- one clarification to the question you  
12           asked about whether or not the Governor has authority  
13           to issue another moratorium. The Governor did have  
14           such authority under a prior statute, I really do not  
15           know the answer. I know that that prior statute  
16           expired. And I'd have to go back and see  
17           specifically what --.

18                      COMMISSIONER HOWARD: Well, could --  
19           that -- that -- that would be a very helpful piece of  
20           information.

21                      MR. ROSENTHAL: Yeah.

22                      COMMISSIONER HOWARD: -- information.

23                      CHAIR CHRISTIAN: Thank you,  
24           Commissioner Howard. Commissioner Valesky?

25                      COMMISSIONER VALESKY: Thank you, Mr.

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           Chair. I have one question and one comment, I think  
3           at this point anyway. And first of all, again, thank  
4           you, Aric, thank you, Alicia, and -- and to your team  
5           for the outstanding work, as has been said earlier to  
6           get us to this point. The question, Aric, I just  
7           want to follow up on -- on what the Chair's question  
8           was in terms of that ratepayer impact, the one-half  
9           of one percent in your presentation, and I'll just  
10          read the sentence that you shared earlier.

11                        So it -- it -- it says the draft order  
12          recommends a surcharge recovery period between one to  
13          five years, depending on the utility to keep the  
14          total customer bill impacts to one-half of one  
15          percent. What is that actually -- can -- can you  
16          explain that a little more, the -- the timeframe and  
17          -- and what would be different from utility to  
18          utility and how that's actually going to work?

19                       MR. RIDER: Okay, yeah. So the target  
20          was to have bill impacts at a one half of a percent.  
21          And in order to achieve that goal, you have to spread  
22          the collection of the cost over multiple years. So  
23          it's really just math to -- to get the bill impacts  
24          fixed at that percentage.

25                       COMMISSIONER VALESKY: And the -- the

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           discrepancy between utility to utility would be based  
3           on?

4                       MR. RIDER: Just the number of low-  
5           income customer arrears at each utility, it differs.  
6           There's much more of an issue in -- in ConEd --

7                       COMMISSIONER VALESKY: ConEd --

8                       MR. RIDER: -- than --

9                       COMMISSIONER VALESKY: -- for example,  
10          right.

11                      MR. RIDER: -- than maybe Upstate.

12                      COMMISSIONER VALESKY: Sure. Okay.

13          Okay, thank you. The only comment I want -- wanted  
14          to -- to make, and -- and -- and maybe it's putting a  
15          bit of a finer point on the issue that Mr. Rosenthal  
16          raised in terms of the -- the -- the timeliness of us  
17          doing this today. And -- and in saying that, let me  
18          certainly acknowledge the efforts of both the  
19          Governor and the Legislature, \$250 million is a large  
20          sum of money.

21                      It's general fund money, it was most  
22          urgently needed. And as others have said, both here  
23          today and others said during -- during -- at the  
24          budget process, whether that number was enough or  
25          not, is certainly something that -- that was debated.

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           And -- and I -- I also agree may -- may very well be  
3           debated again in the future. But it is certainly  
4           significant.

5                       The finer point that though that I  
6           want to put on that appropriations language, and I  
7           went back and looked at it as well. And Mr.  
8           Rosenthal, as you indicated, there is a hard August  
9           1st deadline. So in relation to the expenditure of  
10          that -- of those general fund dollars, so I would  
11          just share with my -- with my colleagues, that if we  
12          were not to approve this order today, we put in real  
13          jeopardy \$250 million to apply toward this arrears  
14          program.

15                      And as several of my colleagues have  
16          indicated earlier, there are only a handful of other  
17          places where that money could be made up. So not  
18          only do I appreciate the approach, I do also  
19          understand the concerns in relation to Phase Two, but  
20          in the final analysis, \$250 million of general fund  
21          support is on the line at this session today. And I  
22          will certainly be supporting the order. Thank you.

23                      CHAIR CHRISTIAN: Thank you,  
24          Commissioner. Commissioner Maggiore?

25                      COMMISSIONER MAGGIORE: Thank you,

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           Chair. I'd like to commend the -- the Legislature  
3           for passing that 250 million. As Commissioner Howard  
4           said that came out of the budget process and was a  
5           result of a lot of hard work from people in this  
6           agency. We know that the legislature did not have to  
7           pass this. The legislature could have decided that  
8           we should come up with the total funding mechanism  
9           for this program and easily could be looking at  
10          doubling or more of the funds recovered from  
11          customers.

12                       A point that I have made in the past  
13          is that funds generated by taxes have a more  
14          progressive relationship with the ability to pay,  
15          than funds recovered through a surcharge or build  
16          into rates. So I sincerely commend the legislature  
17          for passing that \$250 million. I do feel like we  
18          were obliged -- we're obliged to address the really  
19          unique issue of COVID era arrears, but we didn't have  
20          to because the legislature found a way. So I -- I'm  
21          going to vote yes.

22                       And again, I -- I -- I -- I -- I just  
23          want to laud the sort of work that you've done with  
24          the Department when the opportunity called and all of  
25          that included approach to this issue. So that --

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           that was my comments. Thank you.

3                       CHAIR CHRISTIAN: Thank you,  
4           Commissioner. And with that, I'll bring this to a  
5           call for a vote. My vote is in favor of the  
6           recommendations made. Commissioner Burman, how do  
7           you vote?

8                       COMMISSIONER BURMAN: I vote yes.

9                       CHAIR CHRISTIAN: Commissioner Alesi?

10                      COMMISSIONER ALESI: I vote yes.

11                      CHAIR CHRISTIAN: Commissioner

12           Edwards?

13                      COMMISSIONER EDWARDS: I vote no.

14                      CHAIR CHRISTIAN: Commissioner Howard?

15                      COMMISSIONER HOWARD: Yes.

16                      CHAIR CHRISTIAN: Commissioner

17           Valesky?

18                      COMMISSIONER VALESKY: Yes.

19                      CHAIR CHRISTIAN: Commissioner

20           Maggiore?

21                      COMMISSIONER MAGGIORE: Yes.

22                      CHAIR CHRISTIAN: Thank you, everyone.

23           We have the votes to approve this item and the  
24           recommendations will be adopted. At this point, I'd  
25           like to call for a five-minute break. By my watch,

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           it is 12:33. Oh, sorry 12:18. Why don't we return  
3           five minutes from then? And we'll recommence.

4                       (Off the record; 12:18 p.m.)

5                       (On the record, 12:29 p.m.)

6                       CHAIR CHRISTIAN: All right. Good  
7           afternoon, everyone. Welcome back. We'll reconvene.  
8           The next item for discussion will be item 204 case  
9           22-M-0314 related to the review of utilities'  
10          diversity, equity, and inclusion practices. It'll be  
11          presented today by Peter Lavery. And we'll have Jeff  
12          Hogan. Jeff Hogan also available for questions.

13                      Peter, this is your first time in  
14          front of the Commission in this capacity, please  
15          begin.

16                      MR. LAVERY: Thank you, Chair. And  
17          good afternoon, Commissioners. I'm here today to  
18          present the draft order initiating a proceeding to  
19          review utilities' diversity, equity, and inclusion  
20          practices. Throughout this discussion, I will refer  
21          to diversity, equity, and inclusion as D.E.I.

22                      There are many benefits of a diverse  
23          workforce on the utilities operations. A workforce  
24          that, like a utility service territory, includes a  
25          diverse mix of individuals will help to ensure that



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           utility can draw upon a large pool of ideas and  
3           experiences to address operational and customer  
4           needs.

5                         In addition, a diverse -- a diverse  
6           workforce helps businesses become more agile and stay  
7           resilient. And an inclusive workplace improves  
8           employee morale, engagement, and retention. D.E.I.  
9           can also enhance recruiting and advancement  
10          activities. Companies that utilize diverse interview  
11          panels combined with diversity and inclusion  
12          trainings for interviewers can reduce implicit biases  
13          and ensure the company hires and promotes the most  
14          qualified candidates.

15                        Absent consideration of diversity and  
16          inclusion, hiring and recruitment would be stunted by  
17          shallower candidate pools resulting in missed --  
18          missed opportunities to improve utility management.  
19          Further, a diverse workforce that reflects the  
20          utility service territory helps ensure customer  
21          outreach and messaging efforts will reach those who  
22          need the information most.

23                        Of course, utility messaging is  
24          critical to the success of programs directed towards  
25          low to moderate income customers. In recent years,

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           New York utilities have been developing D.E.I.  
3           strategies. Similarly, the Department recently  
4           developed a diversity and inclusion strategic plan  
5           which was submitted to the New York State Office of  
6           Diversity and Inclusion Management last month.

7                         In the lead up to the development of  
8           this proceeding, Department staff conducted  
9           interviews of subject matter experts from New York  
10          State electric gas and water utilities to research  
11          each company's D.E.I. policies and practices. Staff  
12          found that D.E.I. policies and practices have  
13          progressed and continued to evolve across New York  
14          State utilities.

15                        Many utilities have engaged  
16          consultants to assess D.E.I. approaches and to  
17          provide strategic guidance and training as well as  
18          produce recommendations to guide D.E.I. development.  
19          Many utilities have implemented strategic  
20          initiatives, improved corporate communication,  
21          established chief diversity officers and employee  
22          resource groups, engaged in partnerships with  
23          external organizations, or modified recruitment and  
24          hiring practices.

25                        The utilities were eager to share

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           their activities with staff and expressed their  
3           desire to learn about the measures taken by their  
4           peers. And so as described in the draft order, the  
5           goals of this proceeding are to enhance the  
6           utilities' existing measures. And ensure the  
7           utilities have the opportunity to learn from their  
8           peers and stakeholder input.

9                       The draft order directs electric, gas,  
10          and water utilities with a 100 or more employees in  
11          their New York operations to develop D.E.I. plans  
12          outlining their current D.E.I. activities and plans  
13          for improvement. As well as specify targets for the  
14          evolution of those practices and provide an  
15          approximate timeline for achieving those goals.

16                     To aid in the development of the  
17          plans, the Department will organize a working group  
18          for all subject utilities to facilitate discussions,  
19          to allow utilities to share their draft D.E.I. plans,  
20          and for the group to identify best practices.  
21          Utilities are encouraged to engage in robust outreach  
22          to stakeholders and describe this outreach in their  
23          D.E.I. plans.

24                     And although not required to submit  
25          D.E.I. plans, smaller utilities are encouraged to

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           participate in the working group. As well as the  
3           Long Island Power Authority, New York Power Authority  
4           and NYSERDA. The draft order also directs the  
5           Department to engage a independent third party  
6           consultant with D.E.I. expertise to assess the  
7           utilities' D.E.I. plans and to assist the working  
8           group effort.

9                           The selected consultant will assist  
10          the Department in evaluating the utilities' draft  
11          D.E.I. plans to ensure the utilities proposed  
12          measures, goals, and timelines are properly focused,  
13          achievable, and will have a meaningful impact on the  
14          utility operations. The consultant will also  
15          participate in the working group discussions to  
16          assist the Department and participants with  
17          identifying industry and non-industry best practices  
18          that will benefit the utilities.

19                          The draft order requires the subject  
20          utilities to file D.E.I. plans following the  
21          conclusion of the initial working group meetings.  
22          These plans will describe each utilities' practices,  
23          future D.E.I. targets, and timelines for achievement,  
24          and incorporate best practices that were discussed in  
25          the working group and between utilities.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 Stakeholders will be afforded the  
3 opportunity to comment on the D.E.I. plans before the  
4 Commission considers these plans. One outcome of  
5 this proc -- proceeding could be continued working  
6 group meetings to allow the utilities to share their  
7 progress, emerging activities, as well as  
8 implementation successes, and complications.

9 This concludes my overview. I'd like  
10 to thank the Department staff team members that  
11 researched utility practices and contributed to the  
12 development of this draft order. Staff is now  
13 available to answer any questions that the Commission  
14 may have. Thank you.

15 CHAIR CHRISTIAN: Thank you, Peter, I  
16 -- I really appreciate you and Jeff developing this  
17 initiative. And -- and I know this is something that  
18 you've worked on for quite some time with work from  
19 staff and with some feedback from Commission -- the  
20 Commissioners. And you know, though this effort  
21 isn't an explicit requirement of the C.L.C.P.A., it's  
22 certainly aligned with the spirit of the C.L.C.P.A.

23 And the various benefits you've  
24 outlined are something I look forward to having New  
25 York ratepayers being able to benefit from. So thank

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           you for putting this together. I'm also encouraged  
3           that we've extended the participation to the smaller  
4           utilities and NYSERDA, LIPA, and NYPA.

5                       I think there's a lot that can be  
6           learned from these various organizations among each  
7           other and within D.P.S. as well. So thank you for  
8           putting this together, looking forward to continuous  
9           feedback and input on how things are going. And with  
10          that, Commissioner Burman.

11                    COMMISSIONER BURMAN: Thank you so  
12          much. First, I want to address a threshold issue  
13          concerning the part of this draft order that relates  
14          to the hiring of an outside consultant. And give an  
15          opportunity for staff to respond to my raising of the  
16          issue. I -- while I support the idea of an outside  
17          consultant being retained to assist staff in both  
18          reviewing the utilities D.E.I. plans and facilitating  
19          at least the initial working group meetings.

20                    I will note that typically the  
21          selection of a consultant for anything management  
22          audit related has come back to the Commission for  
23          approval. So I -- I believe such fiscal oversight is  
24          really critical to ensuring that ratepayers' money is  
25          spent appropriately and have voiced this concern

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           multiple times including as recently as last month  
3           regarding the gas planning proceeding.

4                       I don't want my support of this  
5           proceeding to be an indication that such consultant  
6           hiring concerns have abated, they have not. And I  
7           believe, especially for management audits, we need to  
8           come back to the Commission for approval. However,  
9           with that being said, I do recognize that what is  
10          being outlined in terms of the role of the consultant  
11          here is more limited in scope than the large audits  
12          we typically approve.

13                      And this consultant will be filling a  
14          discrete role. And I believe bringing needed outside  
15          expertise to the process and helping to ensure that  
16          the goal of the proceeding is achieved. In addition,  
17          the total cost will be spread over a very large  
18          revenue base, meaning that of all the larger  
19          electric, gas, and water utilities.

20                      And while that is true, this should  
21          not mean that we do not factor in the financial  
22          impact of the consultants' selection. I fully expect  
23          that the cost will be a consideration in determining  
24          who is selected through the R.F.P. process staff is  
25          being asked to conduct.

1           6-16-2022 - Monthly Meeting - Albany, New York

2                       Now to ensure at least some Commission  
3 oversight, I personally would like staff to bring --  
4 to brief the Commission on who it is proposing to  
5 select as the consultant in this proceeding. And to  
6 consider any input we may have in that process as  
7 long as we're following appropriate R.F.P.  
8 guidelines.

9                       This would allow for the hiring to  
10 happen on an expedited basis so that someone can be  
11 engaged as the initial D.E.I. plans are filed, but it  
12 will still allow the -- for the Commission as a whole  
13 to have input on the selection and cost of this  
14 narrowly focused hiring. So I'm going to pause now  
15 to allow staff the opportunity to respond to what I'm  
16 suggesting.

17                      MR. HOGAN: Okay. Thank you,  
18 Commissioner. I appreciate your -- your thought  
19 about this. I appreciate all the Commissioners'  
20 input over the past two years that we've been talking  
21 about this issue. I can tell you that costs will  
22 absolutely be a factor that we consider in our  
23 consultants selection process just as it is with all  
24 of our management audit efforts.

25                      We have specific weightings that we



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           put in -- in -- into basically a framework to try to  
3           decide quantitatively determine who might be the best  
4           consultants. So we do intend to use cost as one of  
5           those -- one of those weightings. I can also let you  
6           know that we have every intention to brief the  
7           Commissioners on our select -- on the R.F.P. process  
8           and who we intend to select, we're proposing to  
9           select.

10                       That briefing process would be the  
11           same as the management audit process where we provide  
12           an I.O.M. Inter Office Memorandum to describe who  
13           bid, how much they bid, what their strengths and  
14           weaknesses of the bids are, for those that we might  
15           have interviewed, how those interviews went.

16                       And basically a rationale for our  
17           decision. And just like we've attempted throughout  
18           this, over these months, to try to listen to the  
19           Commission and factor in your input, it would be  
20           something we would also be doing on that selection  
21           process. So while it wouldn't come to an actual  
22           session, we would be seeking that -- that input.

23                       COMMISSIONER BURMAN: Thank you. I'm  
24           really appreciative and I'm looking forward to the  
25           next phase. So getting now more to the heart of the

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           item itself. We have all seen the corrosive and  
3           dangerous impact that racism and bigotry have had on  
4           our State and our nation. I believe we must all work  
5           to better understand and accept each other.

6                       I believe to my core that we are  
7           stronger and better because of our differences not in  
8           spite of them. Sensible D.E.I. policies implemented  
9           with fidelity help to ensure that people feel valued,  
10          accepted, and respected. And that they have  
11          something important to contribute to the world around  
12          us. I will be supporting this item before us today.  
13          And thank you for your work.

14                      CHAIR CHRISTIAN: Thank you,  
15          Commissioner. Commissioner Alesi.

16                      COMMISSIONER ALESI: Thank you, Mr.  
17          Chairman. I just have a quick question and I  
18          apologize, I should have asked this in the briefing  
19          that -- let me state it first, the overall great  
20          progress done by all of you. And it will lead to  
21          good things I'm certain. With regard to other  
22          agencies, is this policy being followed elsewhere as  
23          a -- as a requirement by the legislature or by  
24          anybody else?

25                      In other words, does the -- just say

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           for example, does the Department of Environmental  
3           Conservation, are they required to do the same thing  
4           with their vendors, their people that they are  
5           affiliated with on regular basis?

6                       MR. HOGAN: So -- thank you,  
7           Commissioner. One -- one thing I learned through  
8           this process is that as -- as Peter mentioned that  
9           the Department was worked out -- was working on a  
10          plan this spring and has submitted that -- that plan  
11          to a State agency. All Departments in the State have  
12          a requirement to do the same thing.

13                      There is a -- there's rolling  
14          deadlines for when those are due. Ours were due this  
15          past month. I've -- I've read NYSEDA's which has  
16          been made public. And they have a -- a very  
17          impressive, I thought, plan in place. And we're  
18          looking forward to them hopefully, partic --  
19          partaking in our proceeding.

20                      So it's my understanding that all  
21          Departments have a -- have a requirement to submit  
22          such a plan. It's been a -- I guess it's been over  
23          maybe a year-and-a-half or so. There's been surveys  
24          done, feedback given on those surveys, structures of  
25          plans proposed, and agencies have been moving forward

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           in -- in those efforts.

3                   COMMISSIONER ALESI: Thank you very  
4           much. I asked the questions today so that I can make  
5           a very short but powerful point. And I think that my  
6           point is that we just -- that it almost stands to  
7           reason that this should have been done without those  
8           requirements. And -- but nevertheless, we are  
9           requiring it and we're at least, from my standpoint  
10          I'll be supporting it fully. I think the end goal is  
11          noble and I think it serves all of us very well. So  
12          that I will be supporting this.

13                   MR. HOGAN: Yeah, thank you,  
14          Commissioner. I just want to clarify that while the  
15          Departments I mentioned have recently had these  
16          requirements and I totally agree and support your --  
17          your point. I'll note that the utilities had already  
18          begun efforts. And while some were in the beginning  
19          phases, some are very robust.

20                   And I want to take this opportunity to  
21          thank them for their efforts. And their -- their  
22          full-throated engagement in this, it is really  
23          excited to be involved with it. So I -- we -- we  
24          appreciate it. But so they've been -- many of the  
25          utilities have been doing a lot in this area. And

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           we're looking forward to them sharing amongst each  
3           others.

4                       COMMISSIONER ALESI: Thank you. Let  
5           me just add to that, it seems to me that the  
6           utilities being kind of a distinct business that the  
7           marketplace itself. I guess it would just be prudent  
8           for them to be doing this on their own. So as we do  
9           this for the Department and for the utilities that we  
10          serve, I would certainly hope that private enterprise  
11          is following the same path. I'll be voting yes.

12                      CHAIR CHRISTIAN: Thank you,  
13          Commissioner. Commissioner Edwards.

14                      COMMISSIONER EDWARDS: Thank you very  
15          much. And I will be supporting this item as well.  
16          It's really -- really good work. I just wanted to  
17          make two points in consideration on a going forward  
18          basis, it might even be included in the -- in the  
19          plan. But in addition to recruitment and advancement  
20          if we could just ensure that retention is included in  
21          this as well.

22                      And then secondly, it's critical for  
23          us as it relates to C.L.C.P.A., the workforce  
24          development needs of the future. So we want to just  
25          make sure that the utilities are caring for the

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           diversity perspective. How we are recruiting and  
3           training those individuals as we move as quick as we  
4           can towards clean energy requirements. That's  
5           required for that. But really good work. Thank you  
6           very much.

7                       MR. LAVERY: Thank you very much,  
8           Commissioner Edwards. Just to address your question  
9           about the retention. The draft D.E.I. plans that the  
10          utilities will put together will include hiring,  
11          recruitment, as well as identify any retention  
12          procedures and policies that they have in place. So  
13          we are -- retention will be included in our review,  
14          as well.

15                      COMMISSIONER EDWARDS: Great. Thank  
16          you.

17                      CHAIR CHRISTIAN: Thank you,  
18          Commissioner. Commissioner Howard.

19                      COMMISSIONER HOWARD: Thank you. I  
20          think this is extraordinarily timely for a bunch of  
21          reasons. I believe that the utilities' workforces  
22          are at an inflection point. As we know, here in this  
23          Department we're at an inflection point as the  
24          boomers retire. And the long-tenured folks leave, we  
25          -- there's a real opportunity to increase the

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           diversity and quality of -- of the workforce.

3                       That being said, in conversations with  
4           utility executives, I -- I -- I understand that they  
5           are currently in a desperate thing particularly in a  
6           variety of utility bargaining jobs, line mechanics,  
7           gas mechanics, the more traditional -- what we view  
8           as traditional jobs and utilities.

9                       They're having a very difficult time  
10          in some cases getting qualified applicants to go  
11          through the training program. And then the -- the  
12          multiyear apprenticeship program to bring folks up to  
13          speed. I do believe this is a -- a rare opportunity  
14          to do outreach to a variety of non-traditional people  
15          into those particularly bargaining unit jobs.

16                      And -- and I hope as we move forward,  
17          we continue to engage in the bar -- with the  
18          bargaining units, the various utilities as partners  
19          in -- in this. Additionally and I ask a question as  
20          a, for many technical titles and it's certainly true  
21          here, true whatever, it is a very competitive  
22          marketplace. Young electrical engineers who have  
23          quality and purpose, they are hard to find.

24                      And I think one of the things that may  
25          come out of this is our --are compensation levels

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           within utilities adequate to secure not only the  
3           requisite number of staff to do the work, but to  
4           encourage a more diverse workforce into that end.  
5           And I -- and I hope we identify that I know -- can  
6           say with absolute fact the State of New York is going  
7           to be in a desperate thing not just in this agency,  
8           but all the agencies that deal with technical titles.

9                       I don't believe we are in a good  
10          position, on overall compensation to secure the same  
11          -- the level of folks that we need to -- to get that  
12          by putting engineers and other serious, in where  
13          there are real -- real competitive stuff in the  
14          marketplace for -- for folks.

15                      So I think that creativity needs to be  
16          done and -- and it may result in recommendations  
17          saying that compensation levels need to be enhanced.  
18          And in order to attract the type of workforce that --  
19          that we would like to see. And in some cases, maybe  
20          attract the workforce period.

21                      And I think that that will needs to be  
22          examined pretty closely as -- as we go forward.

23                      MR. HOGAN: Thank you, Commissioner  
24          Howard. Yes, I -- I hadn't really considered  
25          compensation as one of the aspects. But I do



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           understand your point. I think you're absolutely  
3           correct, that there is a -- a very large challenge in  
4           the technical roles you've -- you've mentioned.

5                       And but another challenge I think the  
6           utilities face in that area, is that making sure that  
7           it is a diverse candidate pool is difficult due to  
8           the percentage of people who graduated from college  
9           with those degrees. And so that I know that there's  
10          been grassroots -- I won't -- I won't call it  
11          grassroots efforts there's been efforts by, I know  
12          Con Edison, for instance, I -- my son happen to be on  
13          a robotics team.

14                      And one of the teams that he competed  
15          with was sponsored by Con Ed. I spoke to one of the  
16          mentors there, this was probably five or six years  
17          ago. And he was saying how -- how large of an impact  
18          it had on relatively small number of individuals, but  
19          you really can change courses of lives.

20                      So you -- are utilities are doing  
21          things like that. They are making efforts, reaching  
22          out to specific groups of colleges for instance, I  
23          know that Hispanic engineer group of colleges was  
24          mentioned by one of our utilities to try to say, hey,  
25          you know, we're out here. But of course, as you

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           said, the pay is going to be have to be there as wise  
3           -- as well. So we'll make sure that's part of our  
4           working group discussions.

5                       COMMISSIONER HOWARD: In one  
6           particularly aspect, particularly on the bargaining  
7           unit jobs which have been traditionally male  
8           dominated and that moving more women into that line  
9           of work and encouraging them and I know that's a long  
10          process to change minds and attitudes of young women  
11          that becoming a line mechanic or gas mechanic is --  
12          is -- is a good line of work. It is certainly well  
13          compensated at this time.

14                      But again, it's -- it will be a  
15          challenge. And I hope, when we view that -- that  
16          women in particular as members, the bargain unit will  
17          increase dramatically. So I look forward to the  
18          results.

19                      CHAIR CHRISTIAN: Thank you,  
20          Commissioner. Commissioner Valesky.

21                      COMMISSIONER VALESKY: Well, thank  
22          you, Peter, and Jeff for all the work that you've  
23          done on this and bringing this to our attention for  
24          our consideration today. It goes without saying  
25          certainly how important this topic is. Now more than

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           ever, in many ways. I think the only thing I would  
3           like to follow up on very briefly, Jeff you had  
4           mentioned earlier, I think in response to  
5           Commissioner Alesi's question about the fact that --  
6           that many, if not all, utilities are -- have already  
7           begun to undertake these efforts.

8                       And that some plans are more robust  
9           than others. Perhaps time will tell as we receive  
10          the -- the plans, perhaps the greatest strength of  
11          this item today will be to bring those plans that may  
12          be less robust than others up to a certain level of  
13          standard and -- and sharing best -- best practices.

14                      And what works for one hopefully will  
15          -- will work across the board and utilities  
16          throughout the State. So I certainly look forward to  
17          -- to have seen the plans as they come in and  
18          continuing to follow this item. Thanks very much for  
19          your great work.

20                      CHAIR CHRISTIAN: Thank you,  
21          Commissioner. And Commissioner Maggiore.

22                      COMMISSIONER MAGGIORE: Thank you,  
23          Chair. Both of the points I wanted to make have  
24          already been made, so I would like to thank you for  
25          the presentation and for very good work. This is an

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           important item. I'm happy to be voting yes on it. I  
3           don't have any additional to say or to ask though.  
4           So thank you very much.

5                   CHAIR CHRISTIAN: All right, thank  
6           you. With that said, we'll be doing a call for the  
7           vote. My vote is in favor of the recommendations  
8           brought forward as discussed. Commissioner Burman,  
9           how do you vote?

10                   COMMISSIONER BURMAN: Yes.

11                   CHAIR CHRISTIAN: Commissioner Alesi?

12                   COMMISSIONER ALESI: Yes.

13                   CHAIR CHRISTIAN: Commissioner  
14           Edwards?

15                   COMMISSIONER EDWARDS: Yes.

16                   CHAIR CHRISTIAN: Commissioner Howard?

17                   COMMISSIONER HOWARD: Yes.

18                   CHAIR CHRISTIAN: Commissioner  
19           Valesky?

20                   COMMISSIONER VALESKY: Yes.

21                   CHAIR CHRISTIAN: Commissioner  
22           Maggiore?

23                   COMMISSIONER MAGGIORE: Yes.

24                   CHAIR CHRISTIAN: Excellent. We have  
25           the votes to approve the item and the recommendations

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           are adopted. Thank you both very much for your time  
3           and presentation today.

4                   All right. Thank you. So our fourth  
5           item for today, item 203, Case 22-M-0313. It's a  
6           presentation of the broadband study and mapping  
7           pursuant to the Broadband Connectivity Act. This  
8           will be presented today by Valery Galasso, Debbie  
9           Labelle and Brian Ossias are here for questions.  
10          Valery, please begin.

11                   MS. LABELLE: Good afternoon.

12                   MS. GALASSO: Good afternoon, and  
13          thank you, Chairman Christian, and Commissioners. My  
14          name is Valery Galasso, Chief of Public Policy in the  
15          Office of Telecommunications. With me are my  
16          colleagues Debbie Labelle, Director of the Office of  
17          Telecommunications. Brian Ossias, Deputy Director,  
18          and Mike Fiorello, Utility Analyst Three.

19                   We will be presenting item 203, which  
20          is the first of its kind interactive map and report  
21          required under the newly enacted Comprehensive  
22          Broadband Connectivity Act. In short, under the Act,  
23          the Commission is required to study on an annual  
24          basis the availability, reliability, and cost of  
25          high-speed broadband service in the State.

1           6-16-2022 - Monthly Meeting - Albany, New York

2                       As the COVID 19 pandemic has made  
3 clear, access to high-speed broadband service is  
4 critical. New Yorkers in every corner of the State  
5 are struggling to adapt to the reality of an all-  
6 digital daily life.

7                       But for many, those realities are made  
8 more challenging by the lack of high-speed broadband  
9 service. And while the State has made significant  
10 progress toward universal deployment, there are still  
11 parts of the State predominantly in rural areas that  
12 do not have high-speed broadband available.

13                      It is important to note that our  
14 analysis, as required under the act, studies the  
15 availability of broadband infrastructure, it does not  
16 study subscribership levels and issues related to  
17 broadband adoption. Additionally, the terms used in  
18 the act as a metric for availability are served,  
19 underserved, and unserved.

20                      Those are the terms we will be using  
21 in this presentation, and that you will see in the  
22 report and associated interactive map. To assist  
23 with the interactive map and report, Department staff  
24 engaged with partners across the State, including  
25 county and local governments, internet service

1           6-16-2022 - Monthly Meeting - Albany, New York  
2 providers, and consumers.

3                   The report and interactive map address  
4 the current scope of broadband availability on an  
5 address level basis, and discuss the challenges  
6 associated with broadband mapping. Through continued  
7 collaboration with interested stakeholders,  
8 Department staff expects to map broadband in New York  
9 with greater granularity and increased accuracy in  
10 each iteration of the map.

11                   Based on the analysis that was  
12 conducted to date, we have determined that 97.4  
13 percent of address locations in the State are served,  
14 .1 percent of address locations are underserved and  
15 2.5 percent of address locations in the State are  
16 unserved.

17                   While the Department found that 97.4  
18 percent of New York's primary address points are  
19 served by high-speed broadband service, it more  
20 importantly reveals where the gaps in high-speed  
21 broadband exist. 26 of New York's 62 counties have  
22 percentages less than 95 percent, and of that 26, 11  
23 have served percentages less than 90 percent.

24                   In 3 of New York's counties, Hamilton,  
25 Lewis and Cattaraugus more than 20 percent of address

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           points do not have high-speed service available. The  
3           analysis also found that counties with the lowest  
4           median income were found to have the highest average  
5           prices for broadband and the lowest percentage of  
6           served locations.

7                         Additionally, the analysis found that  
8           Statewide, approximately 42 percent of address points  
9           are served by only one wired or fixed wireless high-  
10          speed provider, while approximately 55 percent of  
11          address points served by more than one provider.

12                        Unlike previous broadband mapping  
13          efforts, the Department concentrated on address level  
14          data. First, we used the New York State street and  
15          address maintenance program also known as SAM as the  
16          location fabric.

17                        Once the location fabric was input  
18          into the map, we overlay data collected from 60  
19          active internet service providers operating in New  
20          York State. We also utilized data from field  
21          inspections driving over 80,000 miles in the most  
22          remote places throughout the State to fact check the  
23          above referenced I.S.P. submitted data.

24                        Finally, we established an interactive  
25          process for New Yorkers to provide information



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           related to broadband infrastructure. By applying  
3           appropriate analyses to these datasets, Department  
4           staff was able to compare, confirm, and contrast  
5           information and ultimately -- excuse me, corroborate  
6           whether an address location is served, underserved,  
7           or unserved.

8                         While we believe the data produced the  
9           most granular results possible, it is not without  
10          flaws and discrete inaccuracies are expected.  
11          Therefore, as part of the report's recommendations,  
12          we will work to refine our mapping efforts going  
13          forward.

14                        As population density plays a big role  
15          in where broadband infrastructure has already been  
16          deployed, the areas identified by the report and map  
17          as under and unserved are in the more rural, less  
18          densely populated areas of the State that will  
19          presumably have a higher cost to construct.

20                        Therefore, we have identified the  
21          following actions and recommendations. First, we  
22          will continue to improve upon broadband mapping. In  
23          doing so, we will review, analyze, and incorporate  
24          consumer input including information generated by the  
25          feedback function implemented in the map to further

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           assess discrepancies.

3                       Provide additional data submission  
4           guidance to all internet service providers operating  
5           in New York so we can update the map annually with  
6           new information. We will conduct additional field  
7           inventories.

8                       We will be monitoring the F.C.C.'s  
9           broadband data collection program and challenge that  
10          program where necessary, and we will consider  
11          incorporating the F.C.C.'s broadband serviceable  
12          location fabric if it becomes publicly available.

13                      Second, we recommend using a targeted  
14          approach to funding. The report and map should serve  
15          to enhance New York's ability to target State and  
16          federal funding for future broadband expansion in the  
17          areas of greatest need.

18                      And, as discussed in part one of our  
19          report, there are several programs that are expected  
20          to provide funding for this stated purpose.  
21          Therefore, we recommend the use of the map as a  
22          central resource for efficient deployment of State  
23          and federal funding.

24                      And we recommend a fund be considered  
25          to mitigate the impact of non-standard broadband

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           installation charges for those consumers most in need  
3           of assistance. Lastly, to address remaining  
4           broadband availability and affordability concerns,  
5           other programs and policy initiatives should be  
6           considered as follows.

7                       First, identify the best technologies  
8           capable of reaching the remaining unserved and  
9           underserved address locations. Second, consider  
10          strategies to expand broadband assistance to those  
11          not eligible for either the F.C.C.'s affordable  
12          connectivity program or the I.S.P.-provided low  
13          income offerings.

14                      And finally, continue consumer  
15          outreach to increase awareness of the F.C.C.'s A.C.P.  
16          discount available to eligible households and  
17          promoting other such programs that foster  
18          accessibility to low income communities.

19                      There is a lot more work ahead and we  
20          look forward to achieving greater accuracy in each  
21          iteration of the map with the help of consumers and  
22          I.S.P.s alike. We'd like to take a moment to thank  
23          our colleagues Mike Fiorillo, Troy Scripture, Russell  
24          King, Mike Rowley, Rick Schuler, and Sean Isakower.

25                      And our contractors, E.C.C.

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           technologies and V.H.B. for their efforts in helping  
3           to produce the map and the report. This exercise was  
4           a large undertaking in a short timeframe, and we're  
5           grateful for their incredible work.

6                       Now, we'd like to go ahead and conduct  
7           a demonstration of the interactive map. Okay. Here  
8           we are, this is the main landing page to the New York  
9           State P.S.C. Broadband Map. Once it becomes  
10          available, the map can be found on the D.P.S.  
11          website, or at [mapmybroadband.dps.ny.gov](http://mapmybroadband.dps.ny.gov).

12                      The first thing you'll find is the  
13          search box, a consumer can type in an address, a  
14          county, a city or town or zip code. The map will  
15          then populate to that particular location. Before we  
16          dig into the map, we'd like to show you more of the  
17          landing page features.

18                      In the upper right hand corner, you'll  
19          find our newly designed consumer survey and our about  
20          page, which -- both of which we will go to  
21          momentarily. Scrolling down, you'll find the  
22          Statewide statistics for broadband coverage across  
23          the State.

24                      On the right side is a table  
25          representing the raw numbers of address points that

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           are served, underserved, and unserved along with the  
3           percentages. As you can see and as mentioned in our  
4           remarks previously, 97.4 percent of address points  
5           are served, .1 percent of address points are  
6           underserved, and 2.5 percent of address points are  
7           unserved.

8                         Additionally, by clicking the widgets,  
9           a map user can see service level definitions as  
10          defined by the act. Next, as you scroll down  
11          further, a user can read more about the broadband  
12          assessment program. Why mapping broadband is  
13          important, how we went about mapping broadband in New  
14          York State and our methodology, service level  
15          definitions and a brief summary of how to use the map  
16          along with how to get in touch with us and a short  
17          video tutorial.

18                        Now, we'll explore the map without  
19          typing in a specific location. The first thing a  
20          first time user will see is our about page. Our  
21          about page discusses the challenges associated with  
22          mapping, notifies the user when the map was last  
23          updated and importantly, introduces the feedback  
24          functionality built into the map.

25                        This is very important to our work,

1           6-16-2022 - Monthly Meeting - Albany, New York  
2 mapping is an iterative process and in order to  
3 achieve increased accuracy, we need to hear from  
4 consumers, more on this later. While the map  
5 populates, what you're about to see is a depiction of  
6 broadband coverage at the county level by overall  
7 service level predominance.

8                       As you can see, every county is a  
9 shade of blue, blue denoting that the county has  
10 predominantly served, the darker shades of blue  
11 denote a higher percent served than the lighter  
12 shades. A user can click on a county and a service  
13 level summary will populate.

14                      Here we have Cattaraugus County, and  
15 on the right side you will see Cattaraugus County is  
16 74 percent served -- forgive me, I -- I can't see  
17 that far. But I suspect the Commissioners can see, I  
18 apologize. And now we want to demonstrate a very  
19 interesting feature in our map that allows a user to  
20 visualize clusters of addresses that are served,  
21 underserved, and unserved, in a particular area.

22                      So by zooming into the map, you'll see  
23 the clusters have formed, each blue circle represents  
24 a cluster of address points that are served, and each  
25 gold circle represents those cluster of address

1           6-16-2022 - Monthly Meeting - Albany, New York  
2 points that are unserved.

3                   This invaluable tool allows consumers,  
4 policymakers, and elected officials to pinpoint  
5 exactly where the gaps in broadband infrastructure  
6 are, and therefore highlighting those areas that are  
7 eligible for funding.

8                   As a user further zooms into the map,  
9 you'll begin to see individual address points  
10 forming. A user can click an address point to reveal  
11 the address, the service level summary and additional  
12 address point data.

13                   Then by clicking Show Providers,  
14 information populates on the right side of the  
15 screen. You'll see this location is served, and  
16 among other things, you'll find a list of providers  
17 available to serve this address, the technology type  
18 they are using and the maximum upload and download  
19 speeds they're offering,

20                   By clicking on the pull down menu to  
21 each provider a consumer can link directly to a  
22 provider's website and view information like current  
23 services and pricing offerings. We also have  
24 included language on the map to make consumers aware  
25 of the F.C.C.s affordable connectivity program and

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           provide a link to learn more about the program and  
3           its eligibility requirements.

4                     If you move further down the screen  
5           below the map, you'll find relevant charts. When  
6           searching at an address level in addition to  
7           Statewide statistics, you will see pie charts  
8           depicting the relevant statistics for cities and  
9           towns, county, and school districts that the address  
10          falls in.

11                    Next, another important feature which  
12          we alluded to before, is the feedback functionality  
13          built directly into our map. By clicking the provide  
14          your feedback tab, a consumer can easily let us know  
15          where corrections may be needed or -- or provide  
16          general feedback about the map to us.

17                    Now, we got to this point by starting  
18          at the county layer. Now, I'd like to show you the  
19          various layers available in the map. Here, users can  
20          choose to view broadband availability by cities and  
21          towns, counties, school districts, tribal lands, and  
22          villages.

23                    And of course, one can click Search  
24          Address and type in an address. Let's take a quick  
25          look at the cities and towns layer. Here you will



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           see, as the State is broken down into smaller  
3           geographic areas, the areas that are unserved come  
4           into focus.

5                       Just like in the county layer, you can  
6           click on a particular city or town to get the  
7           relevant statistics. This is the town of Napoli, I'm  
8           going to spare you my squinting. So let's go back  
9           quickly to the landing page.

10                      For those users who simply want to  
11           plug in an address, you can type it right into the  
12           search box. And similar to zooming in at the county  
13           level, you can be at an address level and zoom out.  
14           Now, where we are now is we wanted to point out our  
15           consumer survey, which we have refined and will be  
16           maintaining for purposes of our annual study.

17                      A consumer can fill out the survey and  
18           take the speed test and those results come directly  
19           to us. That is all from us today, thank you and we  
20           look forward to answering any and all questions.

21                      CHAIR CHRISTIAN: Thank you. That was  
22           illuminating. You know, I -- I very much enjoyed the  
23           -- the overview and I think the timing of this is  
24           critically important. In fact, I think yesterday, I  
25           happened to be reading an article in the Wall Street

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           Journal about some problems with rural broadband, so  
3           the timeliness of this is quite interesting.

4                        You know, ultimately, I -- I want to  
5           thank you all for working on this work today and  
6           obtaining the information to develop this map. I  
7           know it was a long process and I'm thinking back to  
8           when the need for this was first brought to our  
9           attention.

10                      And I'm looking at the product that  
11           you delivered and I -- I would say that you have  
12           exceeded the expectations and what was originally  
13           requested. So I want to thank you for that. You  
14           know, one of the things I found interesting in  
15           looking at this, the original estimate of number of  
16           people with access, it didn't really change much from  
17           what we originally thought it was.

18                      I think originally going in we had  
19           said 97 percent had access and we came up with that  
20           same number. But I -- I -- you said this in your  
21           presentation, I just want to amplify the distinction  
22           between what was done before.

23                      And the new process is, we have a much  
24           greater degree of precision into where the  
25           individuals who have less access are and that can

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           help better shape policy and practices towards  
3           addressing that divide and shortfall, whatever it may  
4           be.

5                       So I definitely think this increased  
6           level of detail is going to be very helpful going  
7           forward. And I want to thank you all for your hard  
8           work in putting this together. Thank you. With  
9           that, Commissioner Burman.

10                      COMMISSIONER BURMAN: Thank you very  
11           much, this was very helpful. I am just thinking  
12           about the other partners that we'd be working with  
13           which would be the F.C.C., and D.O.T. -- New York  
14           State D.O.T., as well as Empire State Development.

15                      And then obviously, the relevant  
16           stakeholders, the municipalities and those who want  
17           access to broadband. And I'm just -- and industry --  
18           I'm just thinking through how is that -- how have  
19           they been involved in this process?

20                      MS. GALASSO: Thank you so much for  
21           your question, Commissioner Burman. We worked very  
22           closely with NYSEG and individual counties, county  
23           planners. We, in fact, did an initial data share  
24           with some of them.

25                      When we'd begun collecting data

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           through our field inventory program there was some  
3           information that we were able to share because it is  
4           intra government with those counties and we were able  
5           to establish communication with them, get their  
6           input, so they were a major part of this.

7                       With respect to Empire State  
8           Development, we speak to them regularly, and as far  
9           as the F.C.C. goes, personally, I, you know, I used  
10          to work there and I have, you know, we haven't really  
11          discussed this map with them.

12                      I am familiar -- we are all familiar  
13          with what the F.C.C. is doing. What we worked to do  
14          was to fulfill our obligations within the act, we  
15          know that the F.C.C. is going to be coming out with a  
16          map at some point soon.

17                      But our efforts are not, you know, we  
18          haven't been communicating directly with them.  
19          However, we are maintaining a close eye on what they  
20          are doing, and we'll be challenging their map when it  
21          does come out if necessary.

22                      COMMISSIONER BURMAN: So I guess -- I  
23          guess the threshold question is, why haven't you been  
24          communicating and why would we look at it as a  
25          challenge rather than making sure we're all working

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           aligned together?

3                       I'm just confused because I also want  
4           to make sure that what we're doing is aligned and  
5           whatever funding and other opportunities for  
6           expertise we are tapping into at the federal level,  
7           and not sort of just having competing maps.

8                       So I do recognize that as we sit in  
9           New York, we have a more specific, you know, sight  
10          into the issues, but I am concerned about hearing it,  
11          there hasn't been that engagement so.

12                      MS. GALASSO: May I answer?

13                      COMMISSIONER BURMAN: Sure.

14                      MS. GALASSO: Thank you. I -- I would  
15          not in any way classify this as competing maps. The  
16          way that I would view this is we have been directed  
17          by the Legislature to produce maps much, much sooner  
18          than the F.C.C.s.

19                      Our maps are specific to New York and  
20          our maps are specific to the legislation that was  
21          designed by the Legislature meeting the definitions  
22          of served, underserved, and unserved that the  
23          Legislature set out which are different from the  
24          F.C.C.'s definitions.

25                      But understood, we completely hear you

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           and we will be --.

3                       MS. LABELLE: Can I?

4                       MS. GALASSO: Go ahead, yeah,  
5           absolutely.

6                       MS. LABELLE: I just want to add  
7           something. I -- I do know that E.S.T. works close --  
8           has been working closely with the F.C.C. so although  
9           we haven't worked directly with them, we are very  
10          much aware of what they were -- are doing.

11                      And also you asked about challenge, I  
12          think what Valery meant wasn't -- it's not a  
13          challenge to work with the F.C.C. But when the  
14          F.C.C. comes out with their mapping, they will have a  
15          challenge process and they do that all the time, they  
16          do that with our DOT funding, they'll propose  
17          something.

18                      And -- and then -- and, you know,  
19          everyone is able to challenge that information. So  
20          we will do that, if necessary, we will use what we  
21          have found in New York. But I think a very important  
22          point is that the F.C.C.'s definition of high-speed  
23          broadband is different than New York's and that is  
24          really key for different mapping results.

25                      COMMISSIONER BURMAN: How do we make

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           sure from an outreach and education perspective, and  
3           also from an analysis perspective that we're going  
4           forward that we are ensuring there's a true apples to  
5           apples comparison.

6                       And that the confusion that might be  
7           out there on our different definitions, are clearly  
8           identified and understood. Obviously, in other  
9           areas, we've had challenges with -- when we're have  
10          different definitions from, you know, federal  
11          reporting requirements and definitions with the State  
12          versus the Fed.

13                      So I'm just sort of looking at it from  
14          a forward thinking perspective of how do we make sure  
15          that we're all rowing the same way?

16                      MS. GALASSO: That is something that we  
17          have spoken with E.S.T. about specifically that  
18          connect our office, we are aware of this distinction,  
19          they are aware of this distinction. And it is  
20          something that they have had to also navigate in  
21          previous -- I don't want to speak for the agency but  
22          they have had to navigate previously.

23                      So it is something that we are all  
24          following incredibly closely. Counties are also  
25          following this very closely and are aware that those

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           speed level definitions are different. So we can  
3           assure you that it is something that everyone is  
4           aware of and -- and following very closely.

5                   COMMISSIONER BURMAN: Okay. And so  
6           what do you envision with the P.S.C.'s role after  
7           here, after today?

8                   MS. GALASSO: We will be, as required  
9           under statute, updating this map annually, we will be  
10          issuing guidance for internet service providers for  
11          the next I.S.P. data submission, that is our next  
12          step. Additionally, as we noted, we have the  
13          feedback functionality now built into the map, we are  
14          really looking forward to hearing from consumers and  
15          seeing where we may have discreet inaccuracies.

16                   And further assessing those, whether  
17          it means getting on the phone with internet service  
18          providers, driving, doing additional field  
19          inventories. The most critical thing for us next is  
20          to refine our map and ensure that it is the most  
21          accurate depiction as -- as we possibly can going  
22          forward.

23                   MS. LABELLE: I -- can I just add one  
24          other thing? We'll -- we will be working very  
25          closely with the ConnectALL Office who will be



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           responsible for administering the federal funds that  
3           are coming for broadband expansion in the State. So  
4           we will be working side by side with them.

5                   COMMISSIONER BURMAN: You anticipated  
6           my question, so thank you, I appreciate that. So  
7           then also the -- the challenges, I'm going to keep  
8           using that word now. The challenges that we've had  
9           with providers in terms of pole attachments and other  
10          things that this may bleed into with broadband.

11                   Is there more -- where looking from an  
12          infrastructure perspective, is there anything that we  
13          need to be -- highlighting in any way? Is that  
14          something that we should be looking at from a  
15          infrastructure build out?

16                   MS. LABELLE: We -- we indeed are  
17          doing that, we -- in a separate proceeding. We are  
18          considering pole attachment policies --

19                   COMMISSIONER BURMAN: Yeah.

20                   MS. LABELLE: -- and specifically for  
21          broadband expansion.

22                   COMMISSIONER BURMAN: Yeah.

23                   MS. LABELLE: So -- so the -- the  
24          short answer is yes.

25                   COMMISSIONER BURMAN: So I just wanted

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           to make sure so this is the team that will then be  
3           involved in that, and making sure that there's  
4           linkage?

5                       MS. LABELLE: Yeah, we will be  
6           involved as well as O.E.G.W. will be a major driving  
7           force because the electric utilities are the majority  
8           pole owners in the State.

9                       COMMISSIONER BURMAN: So sort of the  
10          asterisks I would have, as this report looks to --  
11          and I guess an ask for funding from -- I think the  
12          State Legislature doesn't make clear exactly  
13          establishing this fund exactly what the -- the ask  
14          is, in terms of where the monies are coming -- would  
15          come from?

16                      MS. LABELLE: I'm sorry, what -- the  
17          fund that --

18                      COMMISSIONER BURMAN: There's a fund  
19          here --

20                      MS. LABELLE: -- that consider --  
21          okay.

22                      COMMISSIONER BURMAN: -- in -- in here  
23          there's a recommendation for setting up a fund.

24                      MS. LABELLE: Yeah, that was for a  
25          consumer fund to aid in non-standard installation

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           charges. We -- we don't -- you're -- you're correct  
3           in that we don't have a source. It's really just we  
4           want to start considering that because we do know  
5           that although a home may be passed by broadband  
6           infrastructure, it still may not be accessible to the  
7           consumer, because they cannot afford to pay the  
8           charges that are necessary to bring it to -- right to  
9           their house.

10                   COMMISSIONER BURMAN: Right. So I  
11           guess I'm flagging an issue that I flagged once  
12           before when we had an attachment issue, where I want  
13           to make sure that we are fully sort of bringing to  
14           the table the costs that are incurred internally from  
15           our enforcement perspective.

16                   And also looking at what it means in  
17           terms of some of this buildout that we are making  
18           sure that we don't lose sight of the dollars that we  
19           may need. And then it winds up having to fall on the  
20           ratepayer.

21                   So I'm just kind of trying to make --  
22           kind of close that gap, which is significant.

23                   MR. OSSIAS: So I mean -- again, the -  
24           - this exercise is really dedicated to mapping, there  
25           is a proceeding that was initiated in March of this

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           year, that are -- that is looking into the issues  
3           that you're raising. So it's something that we  
4           expect to bring into Commission, you know, in the  
5           fall.

6                       COMMISSIONER BURMAN: Right. The only  
7           reason it's a kind of for me more front center is  
8           this is the report that is going to the Legislature  
9           per their requirement, that and though the report  
10          does touch upon, you know, that we have this other  
11          proceeding.

12                      I do want to make sure that we're not  
13          losing the opportunity to also give critical  
14          information on what it is in terms of the workload as  
15          well as the dollars that -- that are going to be  
16          entailed, and that you know that their focus is not -  
17          - that they're linked in many ways.

18                      So I just don't want people to focus  
19          on the map and not realize there's a whole other  
20          thing where we have to be laser focused on.

21                      MR. OSSIAS: And that's a fair point,  
22          and the report does mention in a couple of locations  
23          that the proceeding is ongoing --

24                      COMMISSIONER BURMAN: Right.

25                      MR. OSSIAS: -- and is looking at pole

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           attachment.

3                       COMMISSIONER BURMAN: And just when  
4           you go you look at the recommendations, and people  
5           may forget all that other good stuff that's important  
6           there. So what's the next step in terms of this  
7           report, we have a report before us today. It's  
8           pursuant to the Legislature, it has to be given to  
9           the Legislature and the Governor. What is sort of  
10          that mechanism?

11                      MS. LABELLE: So I believe the report  
12          if approved by the Commission to be sent, along with  
13          the map will be sent under Secretary's letter to the  
14          Governor and the Legislature.

15                      COMMISSIONER BURMAN: Okay. And we're  
16          not necessarily approving and -- and blessing each  
17          and every recommendation that's in there or attesting  
18          to the, you know, that the -- the -- the information  
19          itself?

20                      CHAIR CHRISTIAN: Yeah, just to  
21          clarify for all Commissioners, we will be voting on  
22          whether to release this report, period.

23                      COMMISSIONER BURMAN: Okay, right.  
24          Thank you, I think that's an important clarification  
25          and just when it gets given, it doesn't appear as if

1 6-16-2022 - Monthly Meeting - Albany, New York

2 we are saying yes to each and every recommendation,  
3 they may be things that we do all agree with.

4 But we'd probably have to do a lot of  
5 other, you know, work on some of what that means, and  
6 especially when it gets to the funding issues. So  
7 thank you, I really appreciate this, I appreciate all  
8 the hard work that folks have been involved in.

9 I know when we're going to be talking  
10 later on the stray voltage issue, that is something  
11 in terms of even in broadband that we need to sort of  
12 be concerned about, and reliability. So just  
13 flagging that as well. So thank you.

14 CHAIR CHRISTIAN: Thank you,  
15 Commissioner. Commissioner Alesi?

16 COMMISSIONER ALESI: Thank you, Mr.  
17 Chairman. When I'm looking at these graphics they're  
18 absolutely brilliant. And I know that is the result  
19 of an awful lot of talent. Also, the results of -- I  
20 think I read 80,000 miles worth of travel in there  
21 somewhere.

22 So I can't help but think that that  
23 was -- the end result is worth every inch of that  
24 travel, but that speaking of traveling when I was  
25 doing my briefing I had to use my phone. So in order

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           to preserve these graphics, I had to do screenshots  
3           of all your efforts, and now I don't know if I'll  
4           have the heart to delete those screenshots, it's so  
5           good.

6                       But I know there's more to do and I  
7           know that we'll all benefit from this, everybody  
8           will. And I just want to say thank you and applaud  
9           those efforts and encourage you to continue with the  
10          good work, it's fantastic stuff. Thank you, Mr.  
11          Chair.

12                      CHAIR CHRISTIAN: Thank you,  
13          Commissioner. Commissioner Edwards?

14                      COMMISSIONER EDWARDS: Yes, thank you  
15          very much. I also want to thank the team that worked  
16          on that, very important, very timely, you know, the  
17          last part of the first paragraph, the executive  
18          summary speaks to the issues that we have to address,  
19          and we can address better because of the mapping, it  
20          says conversely New Yorkers without such capacity can  
21          be cut off from the economy, their schools, and other  
22          essential services.

23                      You know, access network -- network  
24          access, reliability, and affordability is key, you  
25          know, what happens is when you do good work, it gives

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           an opportunity for us to give you more work. And  
3           part of the -- the challenges that came out this is  
4           that, you know, it -- it uncovers some things that we  
5           need to address, you know, I was struck initially by  
6           the 97.4 percent served.

7                       I appreciate the clarifications that  
8           went on to that because, you know, the dense  
9           population is drive up these percentages because when  
10          you look at the counties in the back, a lot of rural  
11          counties are still unserved or not served by  
12          percentages that are not acceptable.

13                     I also was struck by the broadband  
14          deployment lags that was -- that came out from the  
15          Comptroller's office and also the community survey  
16          that we need to address as well. A portion of this  
17          that said, you know, unaffordable, unreliable, and  
18          inadequate broadband service still exists.

19                     And while I hear you that this was  
20          primarily a mapping, I think that we still have to do  
21          some things here to address some of the outcomes that  
22          exist in this report. If you look at those that are  
23          served by one provider, that's a lot, you know, there  
24          are higher percentages of addresses that are only  
25          served by one provider. And there needs to be some



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           competition, you know, because competition will drive  
3           customers to receive a better service.

4                   On page 23 is very telling and I'll  
5           read what it says here. In general, the 16 counties  
6           with the lowest 25th income percentile, on average  
7           face the highest prices, and are provided with the  
8           lowest speeds.

9                   The 30 counties with incomes in the  
10          middle percentile receive slightly lower prices and  
11          significantly greater speeds. Finally, the 16  
12          counties with the highest incomes, those in the top  
13          25th percentile benefit from the lowest prices and  
14          the greatest speeds.

15                   So my -- my question and concern is,  
16          in the actions that are included in this report, the  
17          policy actions speak to identifying the best  
18          technologies for the remaining served and unserved,  
19          considering strategies to expand broadcast assistance  
20          to those that are not eligible.

21                   Continue customer outreach to increase  
22          the awareness of the F.C.C.'s discount availability.  
23          But what's missing for me are two things. One is the  
24          investigative step that we have to take to identify  
25          why is it that we have the people with the lowest

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           income having the highest prices and the lowest  
3           speeds.

4                       So, you know, what -- what is our  
5           action item for that, and what is our action item  
6           going to be for the fact that there are many  
7           residences that only -- there's only one game in  
8           town. So do we need a separate proceeding to  
9           investigate those items, or can we do it in this  
10          order, like, I'm looking for some recommendations on  
11          how we're going to address some of the outcomes that  
12          came out of from this, you know, very telling, you  
13          know, an excellent deep dive that you all have done.

14                      MS. LABELLE: I just -- thank you,  
15          Commissioner Edwards, very thoughtful questions. And  
16          yes, we are considering what to do about those  
17          things. I think we can include that in the next  
18          study, I will mention as far as areas needing a  
19          competitive choice.

20                      When we work with the ConnectALL  
21          Office, I know that they are interested in not only  
22          reaching those areas that don't have any broadband  
23          service available, but also increasing the level of  
24          competition to extend to areas with only one  
25          provider.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 And I think that pricing is a direct  
3 result of the number of providers. We know that the  
4 providers normally have nationwide pricing, but that  
5 is for their standard pricing or what you would find  
6 on their rate card.

7 However, all of the providers also  
8 offer promotional pricing. And that pricing is  
9 dependent on the competition they face. So if you're  
10 in an area with -- where there's a lot of providers,  
11 the promotional prices that are offered to you will  
12 be lower.

13 And we all know that the number of  
14 providers is greater in areas of greater density,  
15 which usually -- a lot of times correlates with  
16 higher -- higher incomes. So everything is related,  
17 we are aware of it, and we -- we will work with  
18 E.S.T., the ConnectALL Office to focus some of that  
19 funding on increased level of competition which --  
20 when that happens, it will lead to lower prices for  
21 areas that are currently experiencing higher prices.

22 COMMISSIONER EDWARDS: Okay. So  
23 that's really, you know, the answer for the second  
24 one, but I'm still concerned about the first one  
25 about the lowest income paying the highest prices and

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           the lowest speeds.

3                       And we don't have a action in the  
4           recommendations to address this, so how are we going  
5           to -- what's the best way for us to move forward to  
6           ensure that that -- because, I don't want to wait  
7           another year, all right. So what's the -- what's the  
8           next piece for us, what do we have to do as the  
9           Commission to investigate, why is that, and what are  
10          we going to do about it?

11                      MS. LABELLE: So I'm just assuming,  
12          you're -- you're talking about areas that would --  
13          would not have competitive offerings. And --.

14                      COMMISSIONER EDWARDS: No. I'm --  
15          that's the second part of it, I'm -- I'm on the page  
16          23 --

17                      MS. LABELLE: Right.

18                      COMMISSIONER EDWARDS: -- of the  
19          report about the 16 counties and the lowest 25th  
20          income percentiles, on average, based on the highest  
21          prices and are provided with the lowest speeds. The  
22          30 counties with incomes of the middle percentile  
23          receives slightly lower prices and significantly  
24          greater speeds.

25                      And the 16 counties with the highest

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           incomes, those are the top 25th percentile benefit  
3           from the lowest prices and the greatest speeds, not  
4           necessarily related to competition. This, you know,  
5           this is a median income chart.

6                       MS. LABELLE: No, so --.

7                       COMMISSIONER EDWARDS: So, you know, I  
8           -- I think we have a responsibility to figure out  
9           from a policy perspective, why is that and we're  
10          going to do about that?

11                      MS. LABELLE: So I -- I think that it  
12          is directly related to competition, the -- the areas  
13          without competition have the highest prices and the  
14          lowest speeds because they're the only game in town.

15                      COMMISSIONER EDWARDS: Okay. But this  
16          chart is based on the family median income. So what  
17          I would ask, though, is I -- I -- unless I see that  
18          in front of me, I hear you, I would like to have more  
19          information about this because I think that this is a  
20          big deal.

21                      MS. LABELLE: Okay. So we can --

22                      COMMISSIONER EDWARDS: So I --

23                      MS. LABELLE: -- yeah, we --

24                      COMMISSIONER EDWARDS: -- see if we  
25          can drill down and potentially have further

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           discussion on what are we going to do about it  
3           because I -- we have to address that --

4                   MR. OSSIAS: So --.

5                   COMMISSIONER EDWARDS: -- we have the  
6           responsibility to address that.

7                   MR. OSSIAS: Absolutely. So, I mean,  
8           I will note that the Commission has taken targeted  
9           initiatives to address that through low- income  
10          programs, in the mergers of Altice and Cablevision,  
11          as well as Time Warner and Charter.

12                   We continue to look for opportunities  
13          to move that needle when -- when they present  
14          themselves. And we will, you know, hopefully work  
15          towards that goal that you're looking to, you know,  
16          looking to get us to.

17                   MR. ROSENTHAL: Let me make one more  
18          point, Commissioner Edwards, which is that we -- we  
19          hear your invitation, and we definitely will take you  
20          up on it on number one. Number two, is that the  
21          legislation itself requires the Commission to  
22          reexamine the report, the recommendations, and  
23          findings on an annual basis.

24                   So there will be another report in a  
25          year from now and we certainly should examine the

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           issue that you're discussing. This very important  
3           issue that you're discussing in the context of the  
4           next report, if not earlier.

5                   COMMISSIONER EDWARDS: Okay. I guess  
6           I'll just leave you with a year is too long for us to  
7           -- at least start looking at what are the causes for  
8           that and get something in front of us so that, you  
9           know, better understand it.

10                   This is good work that you all have  
11           done, and it has brought to life some things that we  
12           have to act on, and I don't think waiting a year to  
13           act on it is -- is appropriate. Thank you.

14                   CHAIR CHRISTIAN: Thank you,  
15           Commissioner. Commissioner Howard?

16                   COMMISSIONER HOWARD: Yeah, thank you.  
17           I think at this point, it's very important to do  
18           something I've said from this dais multiple times.  
19           The federal government does not allow this State to  
20           regulate I.S.P. providers as utilities, they are not  
21           utilities.

22                   And as much as we try to, you know,  
23           the Legislature in their good work cannot change the  
24           federal law that not gives us -- and by the way, if  
25           they were utilities, what would we get out of that.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 We would get universal service, we would have crossed  
3 subsidies to allow as we do today with electric  
4 customers.

5 The same economics dealing with rural  
6 electric customers being more expensive, difficult to  
7 serve, and have worse service, is the same because  
8 it's harder, okay. When there are two miles between  
9 houses or other things, that's expensive.

10 The other thing is -- so I think that  
11 is -- needs to be reiterated, and again, as I've said  
12 from this dais multiple times, I would beg the  
13 Congress of the United States to give the 50 States  
14 and territories the authority to regulate I.S.P.  
15 providers as telecom utilities.

16 Until that happens, we can go so far.  
17 And what we can bash, we can yell, and we used, and I  
18 must say, in past Commissions, and past actions with  
19 very large corporate restructurings, we used every  
20 trick in the book to get a great deal amount out of  
21 increasing service based on those mergers.

22 But once that was done, our hands are  
23 tied. The other thing that needs to be done, I  
24 believe that we could do is this issue of a benefit  
25 cost analysis as we go forward. By the very



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           definition, these last customers to be served will be  
3           expensive, I mean, expensive in the 10s of 1000s of  
4           dollars per hookup expenses, potentially.

5                       And that is something it's not free,  
6           and the reason -- and anybody who -- I would hope  
7           everybody who is interested in participating in our  
8           next rate cases, particularly those from the  
9           operating companies have large rural parts of their  
10          service territory, and how we address universal rates  
11          for folks that cost more to serve than those that  
12          don't. So that's -- that's number one.

13                      The other thing that concerns me --  
14          and I would hope, here's a couple things, I think  
15          technology is jumping. And certainly I think anybody  
16          who's read, certainly the issues in Ukraine and  
17          particularly how well the Starlink service has worked  
18          for them in such a rapid period of time.

19                      And before we spend \$20,000 to hook up  
20          a seasonal property in Hamilton County, we should  
21          absolutely examine to the best of our abilities, the  
22          cost, the benefits of potential other technologies to  
23          serve these customers and very far afield things.

24                      I know that the current satellite  
25          technologies that have been used is slow, bulky, and

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           not particularly good, but that's changing. The  
3           other thing that you could see also, particularly  
4           those areas in the blue line, and meaning in the  
5           Adirondack Park, and Hamilton and Lewis counties.

6                     The issues of -- they're not going to  
7           get 5G, they're not going to get a lot of things  
8           because there's certain aspects of building antennas  
9           and other wireless technologies that are not possible  
10          by constitution and reg in those areas, so I think  
11          that is also very important to point out.

12                    The other thing is, and I think our  
13          next analysis one of the things particularly in  
14          Hamilton, Lewis, and those parts of Cattaraugus  
15          County, how many of those passing are seasonal  
16          properties that are not, you know, they're not full-  
17          time folks that live there.

18                    Admittedly, there'll be mixed in  
19          between, but again, knowing our -- and how much  
20          should we spend per hook up for a seasonal property?  
21          And -- and it's much easier, this whole dynamic is  
22          much easier when we're playing with somebody else's  
23          money, the federal government's money, okay.

24                    So there is very little analysis done,  
25          whether it's best interest of all served to spend

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           that 15- to \$20,000 to hook up an individual that we  
3           don't need to talk about that because we have the  
4           money. So there's that, the other issue becomes this  
5           issue of monopoly service, okay. And the issue of  
6           competition.

7                       I believe, certainly in the vast  
8           majority of internet or urbanized part of our -- say  
9           that competition will happen very rapidly through  
10          technology. Already in our State, some large 5G  
11          providers are offering internet service through  
12          wireless 5G networks, that will -- that will migrate  
13          a lot of customers.

14                     But again, it will affect those places  
15          and -- and benefit those parts of New York that have  
16          dense populations. You're not going to get 5G in the  
17          middle of Hamilton County right away and just maybe  
18          never. But you may have very adequate and actually  
19          excellent satellite service in the near -- certainly  
20          within the near term.

21                     So the first thing is, I would hope,  
22          Mr. Chairman, at some point, we continue to express  
23          our opinions to the F.C.C. and then advocating to the  
24          Congress to give States the authority to regulate  
25          I.S.P.s as utilities.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 That would -- we wouldn't be in this  
3 spot right now if we had that authority today.

4 Additionally, I will go back to the town boards, of  
5 every one of these rural towns, particularly if they  
6 already have a cable franchise.

7 When they authorize those cable  
8 franchises, they which are one and the same for where  
9 I live, the cable provider is my only I.S.P.  
10 provider. So it was up to my town board at one point  
11 when they signed that initial franchise with that  
12 cable provider to -- there were parts of my town that  
13 were not served, and there were parts of the town  
14 that were served.

15 Again, if they had leveraged those  
16 properly and I think some towns have, that will  
17 provide universal passage -- passing some 20, 30  
18 years ago, these -- these issues could have been  
19 dealt with. And those are the towns right now that  
20 are benefiting from more universal service.

21 And so that needs to be done because  
22 there -- we just need to realize and I -- Counsel  
23 Rosenthal has been very good at this saying about the  
24 level of where -- how much authority we have and  
25 where our limits of our authority end.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 And, again, our analysis, and by the  
3 way, thank God, we did this mapping project and not  
4 other agencies, not -- not other agencies, but we did  
5 it quicker, better, and more thorough. And I think a  
6 good -- again, it shows, like I said to Aric and  
7 Alicia, that -- that our -- our competencies in this  
8 agency are extraordinary and we got this done quicker  
9 than other places, let's put it that way.

10 So what are the lessons that we're  
11 going to learn from this, and that is the real -- the  
12 real nut here, is we know who's left to be served,  
13 how do we serve them efficiently, and how much money  
14 are we willing to throw to serve those individuals.

15 And are we going to do the analysis  
16 and say, what is the most efficient way to do it, not  
17 just in 2022, but what might be good in '23, '25, '26  
18 as other technologies mature. Again, so that's where  
19 I'm coming from.

20 Overall, this is a terrific thing, I  
21 think one thing it -- it -- it does prove that we did  
22 have nearly 98 percent passings in this State. And  
23 having been in many of those towns that show up with  
24 very little passing.

25 Once you're there, you know why they

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           don't have service because there was no economic  
3           incentive for these -- for-profit enterprise  
4           activities to go to those areas. And that  
5           fundamental economics has not changed, because these  
6           are not utilities, and -- so I think that is very  
7           important.

8                         And -- but to the extent that those  
9           municipalities who have these choices now in front of  
10          them knowing with great precision, how -- who's left  
11          to serve, how best to serve them, I think is the real  
12          fundamental question.

13                        And -- and for me is, I don't care if  
14          it's the federal tax money or State tax money or  
15          utility money, I think it's very important that we  
16          have the best analysis possible to make sure that we  
17          don't overspend, just because we have the money.  
18          Thank you.

19                        MS. LABELLE: Thanks, Commissioner. I  
20          just wanted to note you mentioned Starlink. Starlink  
21          was awarded federal rural digital opportunity funding  
22          in New York, for I think it was approximately 46,000  
23          addresses.

24                        So, you know, we'll definitely be in  
25          touch with them and hopefully that is -- is a good

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           solution for some of these more rural areas.

3                   MR. OSSIAS: Yeah, I'll just add that  
4           -- I mean, your observations are spot on. And  
5           actually, the report does indicate that one of the  
6           things we'd like to look at going forward is what the  
7           best technology is for that particular area that's in  
8           need, so we hear you.

9                   CHAIR CHRISTIAN: Thank you,  
10          Commissioner. Thank you. All right. Commissioner  
11          Valesky?

12                   COMMISSIONER VALESKY: Well, thank  
13          you, Mr. Chairman. Thank you all for your great  
14          work, it's really, really outstanding work. I just  
15          want to very briefly mention from two perspectives  
16          why I think this is going to be so well received from  
17          the Legislature.

18                   First of all, having been a former  
19          Legislator myself and passed dozens of laws during my  
20          career, I would often wonder after the Legislative  
21          processes is concluded, whatever happened to that,  
22          did the agency that was in charge of following  
23          through, how did they follow through, what was the  
24          final result?

25                   Well, I can say, again, as a former

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           Legislator, this is really impressive from the  
3           perspective of an agency that took a statute and not  
4           only complied with the statute, which we're required  
5           to do, but I think really went above and beyond the  
6           call of duty in many ways in terms of the final work  
7           product.

8                       The other thing I would say was, I  
9           would note that, just reflecting on the fact that  
10          it's almost a year ago today that myself and you, Mr.  
11          Chairman, and -- and Commissioner Maggiore were  
12          confirmed by the Senate to our roles here.

13                     And I know certainly, from my  
14          perspective, this issue of -- of broadband  
15          connectivity, and availability, and affordability was  
16          raised by more than one senator, certainly during my  
17          confirmation hearing. So I know it's very important  
18          to the Legislature based on -- certainly on that  
19          alone as part of many other -- many other reasons.

20                     So thank you for the outstanding work,  
21          and it's certainly a work in progress and look  
22          forward to continuing to follow it closely. Thank  
23          you.

24                     CHAIR CHRISTIAN: Thank you,  
25          Commissioner. Commissioner Maggiore?



1 6-16-2022 - Monthly Meeting - Albany, New York

2 COMMISSIONER MAGGIORE: Thank you,  
3 Chair. So I -- I want to congratulate the staff for  
4 the extraordinary work with the -- the outcome being  
5 an extraordinary product. That I think your team did  
6 this in a very condensed period of time.

7 And you -- you both literally and  
8 figuratively, traveled many -- many miles as  
9 Commissioner Alesi indicated to get feedback and  
10 information model for the State. Commissioner  
11 Valesky just referred to our confirmation process  
12 which took place a year ago and I -- I would confirm  
13 that the senators that I heard from, many of them  
14 spoke to this issue, and it was one of the major  
15 issues during our confirmation process.

16 And when I say this, you know this,  
17 I'm talking about mapping broadband at a granular  
18 level. That was the word that kept coming up,  
19 granularity. And I've heard that before I was  
20 nominated for the P.S.C. that the previous  
21 assessments of the States' coverage did not look at a  
22 granular enough level.

23 You know, I would say the -- the map  
24 that you just demonstrated today shows a level of  
25 granularity that I don't think you could be more

1           6-16-2022 - Monthly Meeting - Albany, New York  
2 granular solely on whether or not an individual  
3 residence is serviced. So that is an extremely  
4 valuable tool to policymakers on whatever level of  
5 government, perhaps even the companies that might be  
6 looking to service these areas.

7                   It -- it almost goes without saying,  
8 but I'll say it, it has been said this product  
9 fulfills the Legislative mandate. The Legislature  
10 didn't make recommendations, they didn't ask us to do  
11 something, they mandated D.P.S. to produce the  
12 product that you are unveiling today.

13                   It also reiterated -- in my  
14 assessment, what are we -- what is the P.S.C. being  
15 asked for or being asked to vote whether or not to  
16 release it to the Legislature. So in my judgment,  
17 this fulfills the Legislative mandate.

18                   It seems to fulfill the Legislative  
19 mandate but based on the question does it fulfill the  
20 mandate, that's the question on the table and I think  
21 that it does. Beyond that, I'm impressed that this  
22 is not a static report, this is not a report that  
23 we're looking at right now and then we file it.

24                   This is a dynamic tool as -- as you've  
25 indicated repeatedly, this is -- the map would be

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           updated annually, and if I'm hearing you correctly  
3           and correct me if I'm wrong, the process of updating  
4           it will be dynamic and -- and we -- we won't have to  
5           wait a year to see that it has been adjusted  
6           especially if inaccuracies are pointed out along the  
7           way.

8                         So I -- I think this is a, you know,  
9           I'm very happy voting yes to release this to the  
10          Legislature. I think it's a valuable tool that has  
11          long been sought, and I hope it is the tool that we  
12          put to use to decide some of the policy questions  
13          that follow. Thank you very much.

14                        CHAIR CHRISTIAN: Thank you,  
15          Commissioner. And -- and just to reiterate, as we  
16          take this vote, we're going to be voting on whether  
17          or not to submit this report to the Governor, the  
18          President of the Senate, and the Speaker of the  
19          Assembly in accordance with Public Service Law,  
20          Section 224-C Subsection 3.

21                        So that's it, I'm going to bring it to  
22          a call to a vote. My vote is in favor of the  
23          recommendation to submit. Commissioner Burman?

24                        COMMISSIONER BURMAN: Yes.

25                        CHAIR CHRISTIAN: Commissioner Alesi?

1 6-16-2022 - Monthly Meeting - Albany, New York

2 COMMISSIONER ALESI: Yes.

3 CHAIR CHRISTIAN: Commissioner

4 Edwards?

5 COMMISSIONER EDWARDS: We're voting in  
6 favor to release the report, correct?

7 CHAIR CHRISTIAN: Correct.

8 COMMISSIONER EDWARDS: Okay. I vote  
9 in favor.

10 CHAIR CHRISTIAN: Thank you.

11 Commissioner Howard?

12 COMMISSIONER HOWARD: Yes.

13 CHAIR CHRISTIAN: Commissioner

14 Valesky?

15 COMMISSIONER VALESKY: Yes.

16 CHAIR CHRISTIAN: Commissioner

17 Maggiore?

18 COMMISSIONER MAGGIORE: Yes.

19 CHAIR CHRISTIAN: Thank you. All  
20 right. The item is approved, and recommendations  
21 adopted, and the report will be released. Thank you  
22 all again for your hard work and dedication in  
23 putting this together. Okay. And with that, we're  
24 going to take a five minute break, we'll come back,  
25 and we'll go into the discussion items. Thank you,

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           everyone.

3                               (Off the record, 1:54 p.m.)

4                               (On the record, 2:03 p.m.)

5                               CHAIR CHRISTIAN: All right. Good  
6           afternoon, everyone. We're now going to discuss our  
7           fifth item for today, item 101 Case 22-G-0165, which  
8           is the 2021 Pipeline Safety Performance Measures  
9           Report, will be presented by Valerica Oreifej.  
10          Valerica, please begin.

11                              MS. OREIFEJ: Good afternoon, Chair,  
12          Commissioners. My name is Valerica Oreifej, I'm a  
13          Utility Engineering Specialist 2 with the Office of  
14          Electric Gas and Water Pipeline Safety Section. Item  
15          number 101 is the 2021 Pipeline Safety Performance  
16          Measures Report and is for information only.

17                              The measures that make up the report  
18          are the result of joint efforts beginning in the  
19          1990s between the 11 major gas distribution operators  
20          and the Department of Public Service. The report  
21          examined the results of local distribution companies  
22          or L.D.C.s for short, performance in specific areas  
23          that include damage prevention, emergency response,  
24          and leak management for 2021.

25                              As well as the results of staff's

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           audits and investigations that verify compliance with  
3           the pipeline safety regulations for 2020. Overall,  
4           the data indicates that performance has substantially  
5           improved for L.D.C.s across the State over the 19-  
6           year period, staff has been reporting performance to  
7           the Commission.

8                       Next slide please. The first measure,  
9           damage prevention, gauges the success of L.D.C.s and  
10          minimizing damages to buried gas facilities caused by  
11          excavation or demolition activities. The damage  
12          prevention measure is broken down into four  
13          categories, damages due to mismarks or the inaccurate  
14          marking by the L.D.C. of its affected underground  
15          facility.

16                     L.D.C.s and their contractors, third-  
17          party excavator error, and no calls or failure of an  
18          excavator to provide notice of intent to excavate to  
19          the one-call notification system. In 2021, the  
20          mismarked damage rate improved by about 9 percent.  
21          L.D.C.s and their contractors they are damage rate  
22          and remain consistent at .08. The third-party  
23          excavator error damage rate improved by about 19  
24          percent and the no-call rate improved .7 percent.

25                     Next slide, please. I would like to

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           emphasize that although in 2021, there was a 6  
3           percent increase in the total number of one-call  
4           tickets, the number of total damages decreased by  
5           about seven percent, resulting in a significant  
6           improvement of total damage rate that decrease by  
7           about 12 percent going from 1.85 in 2020 to 1.62  
8           damages per 1000 one-call tickets in 2021.

9                           A review of the data for the past 14  
10           years shows a downward trend in the total damage rate  
11           per 1000 one-call tickets as it can be seen by the  
12           trendline shown on the graph. Next slide, please.  
13           The second measure, emergency response reflects the  
14           L.D.C.'s ability to respond promptly to report of  
15           leak -- leak, odor, and imaging certification by  
16           examining the percentages of reports that were  
17           responded to within specific time intervals.

18                           The percentages and the intervals are  
19           as follow. Respond to 75 percent of emergency  
20           reports within 30 minutes, respond to 90 percent  
21           within 45 minutes and respond to 95 percent within 60  
22           minutes. L.D.C.'s performance for each of the  
23           emergency response time intervals also improved in  
24           2021.

25                           In general, the L.D.C.s have continued

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           to use technology, such as Global Positioning System  
3           to quickly identify the most appropriate employee to  
4           respond and have continued placing or adding  
5           personnel in certain geographical areas during the  
6           time of the day that have historically high volume of  
7           emergency notification.

8                         In addition, the Commission has been  
9           incorporating positive revenue adjustments within  
10          L.D.C.'s respective rate plans to encourage further  
11          improvements. Next slide, please. The third  
12          measure, leak management examines the L.D.C.'s  
13          performance related to the leaks inventories in  
14          addition to the evaluations. The evaluation of leaks  
15          discovered, and leaks repaired.

16                        Potentially hazardous leaks include  
17          any leak that required -- requires repair, which are  
18          types 1, 2A and 2. Type 3 leaks which do not have a  
19          prescribed timeframe, they are considered to be non-  
20          hazardous. Type 3 leaks are required to be  
21          reevaluated during the next required leakage survey  
22          or annually, whichever is sooner to ensure that a  
23          public safety concern has not developed.

24                        While type 3 leaks are not expected to  
25          become a safety concern, L.D.C.s continued to



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           eliminate those types of leaks as a result of rate  
3           cases targets set forth for annual total leak  
4           backlogs because it reduces lost gas, maintenance  
5           cost, the total number of emergency reports, and any  
6           effect the persistent odor has on negatively  
7           impacting public awareness efforts.

8                       For -- for leaks requiring repair, the  
9           end of calendar year generally coincides with the  
10          beginning of the frost season. During this  
11          timeframe, there is a greater chance of gas migration  
12          into a building because the gas cannot vent suddenly  
13          through the soil to the atmosphere due to the blanket  
14          of frost.

15                     In general, all L.D.C.s have  
16          demonstrated improvement over the past several years.  
17          Compared to 2020 and 2021, the total year end leak  
18          backlog improved by about 14 percent. The repairable  
19          year and leak backlog decreased by about 9 percent.  
20          The total number of leaks discovered increased by  
21          about 5 percent and the total number of leaks  
22          repaired increased by about 4 percent.

23                     Next slide, please. For the fourth  
24          and final measure, L.D.C.s are evaluated on their  
25          compliance with the pipeline -- minimum pipeline

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           safety regulations. This measure looks at non-  
3           compliance issues as identified by staff during  
4           annual audit activity. Each year staff conducts  
5           statistically based audits and investigations of  
6           L.D.C.s to determine their compliance.

7                       Each non-compliance identified  
8           represents an area where an L.D.C. failed to meet the  
9           minimum requirements as prescribed. The data  
10          reported varies greatly from year to year, which is  
11          due in part to staff's 5-year audit cycle. Staff's  
12          audits and investigations occur on varying  
13          frequencies determined by the risk each regulations  
14          poses to the public safety.

15                     The regulations are identified either  
16          as high risk in which audits are conducted annually  
17          or as other risks which are evaluated on 2, 3, 4 or  
18          5-year frequency not to exceed 5 years. In 2020,  
19          staff identified 9 compliances in all 11 L.D.C.s  
20          operating service territories. For the view of the  
21          number of violations incurred by L.D.C.s in 2020,  
22          shows that the number of violations sig --  
23          significantly increased for some L.D.C.s, while for  
24          other L.D.C.s the number of violations decreased.

25                     For those L.D.C.s that showed an

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           increase in the number of violations in 2020, the  
3           increase can be primarily attributed to record-  
4           keeping issues. During its audit, staff found that  
5           the record-keeping issues were related to the  
6           L.D.C.'s ability to convert their physical records to  
7           electronic records for virtual accessibility as  
8           necessitated by changes in the business practices  
9           caused by having to operate within a COVID  
10          environment.

11                       Although in 2020, some L.D.C.s shows  
12          an increase in the number of violations, the past 7  
13          years, the data for high risk and other risk  
14          violations shows a downward trend as it can be seen  
15          by the trend lines shown on the graph. Regardless of  
16          the efforts made so far, the goal for each L.D.C.  
17          should remain the complete elimination of all non-  
18          compliances with the minimum pipeline safety  
19          regulations.

20                       Next slide, please. As L.D.C.s  
21          continue their outreach and education efforts to the  
22          excavator communities, as well as the general public,  
23          adopt better practices, and responded to leak, odor  
24          and emergency notifications and continue to replace  
25          leak prone pipe, staff expects further improvement --

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           performance improvements will occur.

3                       Thank you, Chair, Commissioners. This  
4           concludes my presentation of the 2021 Pipeline Safety  
5           Performance Measures Report, where I'd be happy to  
6           answer any questions. Thank you.

7                       CHAIR CHRISTIAN: Thank you so much,  
8           Ms. Oreifej, you know, I read the report and I really  
9           appreciate the presentation you've put together. And  
10          I have a request. You mentioned earlier different  
11          types of leaks. And I'm wondering if you could  
12          explain the differences between the type 1, 2 and 3  
13          leaks just so we can understand the magnitude of the  
14          severity of each type.

15                      MS. OREIFEJ: So type 1 leak is the  
16          most severe -- most severe, it's required by the code  
17          to be basically repaired immediately. It's based on  
18          the location obviously, the classification is based  
19          on location. What is the most populated area,  
20          they're required to be fixed, repaired immediately.

21                      Types 2A, they are required to be  
22          fixed, repaired within 6 months and type 1 leaks,  
23          they are required to be repaired within a year.  
24          Types 3 leaks, they do not have a requirement or  
25          timeframe for repair on the code.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 CHAIR CHRISTIAN: So if I'm hearing  
3 you correctly, a type 1 leak, in say, an urban area,  
4 highly densely populated urban area, may be  
5 considered a type 2 leak in a more rural area, where  
6 the population is lower or where a pipe area is, you  
7 know, wood -- woodland area.

8 MS. OREIFEJ: The code describes, it's  
9 based on classification, there is the location class  
10 1, 2, 3 and 4.

11 CHAIR CHRISTIAN: Uh-huh.

12 MS. OREIFEJ: And so based where the  
13 leak is found in which class area, class location is,  
14 that's how it's being classified as type 1 or 2, or  
15 2A leaks.

16 MR. SPEICHER: And the classifications  
17 are based upon the proximity to structures.

18 CHAIR CHRISTIAN: Got it.

19 MS. OREIFEJ: Correct.

20 MR. SPEICHER: Type 1 is closest to  
21 the structure, presents the most hazard to life and  
22 property.

23 CHAIR CHRISTIAN: Thank you very much.

24 MR. SPEICHER: Type 3 would be the  
25 least hazardous, not hazardous.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 CHAIR CHRISTIAN: Got it. Thank you.

3 Yeah, I mean, I'm very encouraged that we, you know,  
4 and I'm sure, we've always done this as an  
5 organization. And, you know, in my past work with  
6 the utility, pipeline safety is always a paramount  
7 thing, you know, I think it's important that we  
8 continue to maintain our vigor towards ensuring the  
9 safety of the pipeline system, you know, there's lots  
10 of discussion as to how we'll be using our pipelines  
11 in the future, questions about the use of renewable  
12 natural gas or hydrogen.

13 And ensuring that our system is as  
14 robust as possible will be integral towards any use,  
15 we put it towards in the future. So I want to thank  
16 you --

17 MS. OREIFEJ: Sure.

18 CHAIR CHRISTIAN: -- for putting this  
19 together and sharing this with us today.

20 MS. OREIFEJ: Thank you.

21 CHAIR CHRISTIAN: Commissioner Burman.

22 COMMISSIONER BURMAN: Thank you so  
23 much. First, I do just want to take ,as I do when we  
24 talk on pipeline safety, a safety moment and remind  
25 folks that if you smell gas to please leave the area

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           immediately. Once you're safe, you're to call 911 or  
3           your utility to report a possible leak, do not light  
4           matches, start your car, or use any electronic  
5           appliances that could spark and start a fire.

6                         Pipeline safety is very important to  
7           me personally, the integrity and reliability of our  
8           gas system is paramount. And at the core of that is  
9           safety. So it's really important for us to hear how  
10          well the utilities have been meeting their  
11          obligations. Also, I believe we must place a strong  
12          emphasis on innovative technologies to enhance  
13          pipeline safety.

14                        And that includes innovations around  
15          damage prevention, leak detection, methane detectors  
16          and other infrastructure upgrades and improvements.  
17          This presentation does show us the trends which  
18          mostly are leaning in a positive way for the amount  
19          of work that's been done to engage that we are  
20          enhancing pipeline safety and allowing for a smarter,  
21          safer, and more efficient natural gas system.

22                        In the presentation that was done on  
23          past performance with respect to safety, it's really  
24          important to see how we're doing in proper utility  
25          regulatory oversight with a focus on continuous

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           improvement. So I truly appreciate it. And I really  
3           thank you for the presentation. Our State  
4           decarbonization's policies do need to come to terms  
5           with the fact that gas remains a core, critical  
6           supply chain fuel source for reliability, resiliency,  
7           and safety.

8                       I do want to thank all stakeholders  
9           who are engaged in these critical matters. But I  
10          especially want to thank our staff, the utilities,  
11          UDig New York, which rebranded themselves this year,  
12          New York 811, the Common Ground Alliance and a  
13          special thank you to our federal partners, especially  
14          PHMSA, who continues to be an amazing partner in  
15          helping us all work collaboratively towards  
16          continuous improvement in the natural gas system  
17          space.

18                      I look forward to us continuing to  
19          work with PHMSA, especially as we help the industry  
20          responsibly and reasonably implement and address  
21          Legislative regulatory and State policy directives.  
22          New York has traditionally had a good story to tell  
23          in our regulatory focus on pipeline safety and  
24          resiliency.

25                      First, this year's presentation shows



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           the leak numbers look great for most companies. I do  
3           pause, it seems the ones that may not have fared as  
4           well seem to be the ones that had leak-prone pipe  
5           activities scaled back. And to me, I believe we have  
6           to recognize that there's a clear correlation between  
7           replacing leak-prone pipe and low leak inventories.

8                       Next, the violation numbers. So when  
9           you look at it, it may appear to be a cause for  
10          concern. But I think that would be a misread. And  
11          it's important for us to know that, especially as  
12          folks may be looking at this and not understanding  
13          that. And this read to me is what is actually at  
14          play, we increased the focus areas under the  
15          violation category.

16                      So I think in that context, we can't  
17          analyze the numbers with that -- without that  
18          important recognition, perhaps with these additional  
19          areas now under that category, it may help to  
20          highlight these challenge areas that need some focus.  
21          And this can help overall with pipeline safety.

22                      So these are why it's important for us  
23          to analyze that and clearly make correlation and  
24          linkages that are appropriate. Lastly, I want to  
25          encourage us to continue to find ways to responsibly

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           and reasonably worked with PHMSA, industry, and other  
3           stakeholders in pipeline safety issues. Including  
4           finding ways to incorporate A.P.I. recommended  
5           practices, 1173 pipeline safety management system  
6           practices into what the culture is, and what we're  
7           doing, and do it in a way that's responsible, and yet  
8           flexible, and not prescriptive. Thank you so much.

9                       MS. OREIFEJ: Thank you.

10                      CHAIR CHRISTIAN: Thank you,  
11           Commissioner. Commissioner Alesi.

12                      COMMISSIONER ALESI: I have no  
13           questions or comments. Thank you, Mr. Chairman.

14                      CHAIR CHRISTIAN: Thank you,  
15           Commissioner. Commissioner Edwards.

16                      COMMISSIONER EDWARDS: I just have one  
17           question on the leak management and the -- even  
18           though it does show that National Grid on Long Island  
19           continues to improve, do you have a sense of what is  
20           driving that performance?

21                      MR. SPEICHER: As far as their  
22           numbers, they are, as you said, they are coming down.  
23           That -- it's important to realize that even though  
24           the numbers are very high, they are -- they are  
25           complying with regulations as written today for --

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           for leaks, it's just -- I think they started so high  
3           that it's taking them a lot longer to come down.

4                       As Commissioner Burman mentioned, we  
5           do have to make sure we continue to replace pipe and  
6           especially in the -- the higher risk areas and where  
7           there's a larger leak density.

8                       COMMISSIONER EDWARDS: So -- I'm  
9           sorry. So what has drawn down the overall better  
10          performance is their -- is their infrastructure plan  
11          that they put in place, is that what I'm hearing?

12                      MR. SPEICHER: I think that plays a  
13          big role, yes.

14                      COMMISSIONER EDWARDS: Okay. Anything  
15          else?

16                      MR. SPEICHER: I think that indeed  
17          also in the rate cases, we've have -- we have  
18          performance metrics and therefore that focus on  
19          reductions in the backlogs over time. So each year,  
20          the number gets a little bit lower. And we have  
21          measures in there that -- to help prevent backsliding  
22          so that if they do reach a number, we don't want them  
23          to essentially take a year off and have that number  
24          rise again.

25                      So the performance metrics have helped

1 6-16-2022 - Monthly Meeting - Albany, New York

2 tremendously with all companies for that.

3 COMMISSIONER EDWARDS: Okay. Great.

4 Thank you.

5 CHAIR CHRISTIAN: Thank you,

6 Commissioner. Commissioner Howard.

7 COMMISSIONER HOWARD: Yeah. Thank

8 you. Thank you for this report. And I just want to

9 echo, I think something that Commissioner Burman

10 started out our session with, we have some very big

11 and tough cases coming before this that with -- well

12 in high double digits, in some cases regarding gas

13 delivery rates.

14 The one thing that I concur with her

15 that safety can't be our denominator here, meaning

16 that we need to squeeze a few more \$100,000 out of a

17 settlement. Safety can't be where we do it. It will

18 move us back and for those in our State who want us

19 to abandon the gas system right away, that's not

20 going to happen even if we could.

21 And whether or not that's a good idea

22 or not is still something that we, as a Commission

23 and a variety of proceedings are actually undertaking

24 the examination of what the next phase is for our gas

25 system. But again, as Mr. Chairman, you pointed out,

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           it won't matter what the flammable material goes  
3           through those pipes if they leak, whether it's  
4           hydrogen, renewable, natural gas, or a blend.

5                       So again, I think we need to be  
6           particularly vigilant. And for those who are  
7           involved in the -- these big rate cases coming before  
8           us, please make sure that safety doesn't get a  
9           backseat. Thank you.

10                      CHAIR CHRISTIAN: Thank you,  
11           Commissioner. Commissioner Valesky.

12                      COMMISSIONER VALESKY: Thank you very  
13           much for the report. No question.

14                      CHAIR CHRISTIAN: Commissioner  
15           Maggiore.

16                      COMMISSIONER MAGGIORE: I have no  
17           questions or comments other than thank you for the  
18           excellent report.

19                      CHAIR CHRISTIAN: Great. Ms. Oreifej.

20                      MS. OREIFEJ: Thank you.

21                      CHAIR CHRISTIAN: Thank you very much.  
22           Okay. We will now move on to our sixth item of the  
23           day, item 201, case 22-M-0054, which is the 2021  
24           Utility Customer Service Performance Report, which is  
25           presented by Ms. Kayla Whitaker. Kayla, please

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           begin.

3                       MS. WHITAKER: Thank you and good  
4           afternoon, Chair and Commissioners. Item 201  
5           summarizes the New York State Electric, Natural Gas  
6           and Water Utilities Performance for 2021 on measures  
7           of customer service performance. While safety and  
8           reliability are paramount, the quality of customer  
9           service remains vital to customers.

10                      Customer service performance  
11           indicators help to align shareholder and customers  
12           interests by providing potential earnings  
13           consequences to shareholders that reflect the quality  
14           of service provided to utility customers. Next slide  
15           please. The utilities file annual customer service  
16           reports which allows staff to track customer service  
17           performance each year and identify trends that are to  
18           be addressed in rate case proceedings.

19                      The reports contain customer service  
20           measures such as P.S.C. complaint rate, survey based  
21           measures of customer satisfaction, call answer rate  
22           which is the percentage of calls answered by a  
23           utility representative within 30 seconds. The rate  
24           of appointments kept, adjusted bills which are based  
25           on the number of adjusted bills created due to

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           utility error.

3                         Estimated bills which measures the  
4           number of bills issued from estimated meter readings,  
5           and residential collections measures such as customer  
6           service terminations, uncollectables or write-off  
7           expenses and customer arrearages. The P.S.C.  
8           complaint rate, customer satisfaction survey, and  
9           call answer rate are typically the mechanisms used to  
10          measure performance at most utilities.

11                        While the other metrics are utility  
12          specific and were established to address specific  
13          service quality issues. For 2021, staff conducted a  
14          thorough audit into the utilities' reported customer  
15          service performance, processes, and procedures, which  
16          included interrogatory responses, multiple conference  
17          calls, and the verification of data provided.

18                        As a result, staff identified and  
19          provided 13 recommendations in the report on several  
20          areas for improvement and where further  
21          standardization could be implemented. Staff is  
22          pleased to report that for the most part, the  
23          electric, natural gas, and water utilities met or  
24          exceeded the standards for customer service  
25          performance, established within their individual

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           customer service metrics for 2021.

3                       Next slide, please. Staff determined  
4           during its audit that most of the electric, natural  
5           gas, and water utilities successfully achieved their  
6           targeted performance in 2021. There were a few  
7           exceptions for the following companies. Central  
8           Hudson Gas and Electric Corporation or Central  
9           Hudson, New York State Electric and Gas Corporation  
10          or NYSEG.

11                      Rochester Gas and Electric Corporation  
12          or RG&E, and Liberty Saint Lawrence Gas Corporation  
13          or Liberty. For Central Hudson, the utility achieved  
14          85 percent on its 2021 customer satisfaction survey  
15          metric, which failed to meet its 87 percent minimum  
16          target established in its recent rate plan.

17                      Because of this failure, the company  
18          will incur an N.R.A. totaling \$600,000. Central  
19          Hudson cited its transition to a new customer  
20          information system as the primary reason for failing  
21          to meet this target. Liberty also failed to meet its  
22          customer satisfaction survey target of 86 percent  
23          reporting a performance of 85 percent.

24                      This failure resulted in an assessment  
25          of an N.R.A. totaling \$24,000. Liberty attributed



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           rising gas commodity prices as the main cause for the  
3           decline in its customer satisfaction survey  
4           performance. NYSEG and RG&E both failed to meet the  
5           estimated bills target performance for 2021.

6                         NYSEG had a performance of 9.68  
7           percent against its target of 6.76 percent. And the  
8           company incurred an N.R.A. of \$750,000. RG&E's  
9           target of 15.65 percent was not met against its  
10          performance of 25.58 percent. Resulting in an N.R.A.  
11          totaling \$900,000. NYSEG and RG&E have filed a  
12          petition with the Commission requesting a waiver of  
13          certain metrics in cases 19-E-0378 et al, which will  
14          be brought before a future session.

15                        In the petition, the companies state  
16          their performance for the 2021 estimated bills metric  
17          and failure to meet the targets was due to the COVID-  
18          19 pandemic, as the companies had not yet resumed  
19          indoor meter readings, had issues with meter reading  
20          staffing levels, and claims that customers were  
21          denying the utility representatives access to the  
22          meters on the premises.

23                        Next slide, please. In addition to  
24          the annual customer service performance indicators,  
25          several utility joint proposals contain language that

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           a utility may accrue positive revenue adjustments for  
3           their performance in reducing the levels of  
4           residential customer service terminations,  
5           uncollectible expenses and/or arrearages each year,  
6           under the residential collections mechanism.

7                         Customers benefit from utility  
8           reductions and termination of uncollectables as  
9           utilities further assist customers by avoiding  
10          service shutoffs through additional customer outreach  
11          regarding bill payment methods and/or payment  
12          agreements, as well as reduced uncollectible expense,  
13          which is ultimately paid for by customers.

14                        In 2021, no utility is seeking to  
15          recover a positive revenue adjustment due to the  
16          effect of the COVID-19 pandemic and the moratorium on  
17          terminations and disconnections has had on utility  
18          business operations. In summary, the customer  
19          service performance indicators currently in place at  
20          New York State utilities establish strong standards  
21          for performance and put significant amount of  
22          shareholder earnings at risk for non-performance.

23                        Overall, these mechanisms implemented  
24          by the Commission coupled with staffs' ongoing  
25          monitoring and auditing efforts appear to have been

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           effective in encouraging the companies to make  
3           customer service a priority and provide the criteria  
4           for ensuring that the quality of customer service  
5           remains at high levels across New York State.

6                       Staff will continue to monitor utility  
7           customer service quality to ensure the fair and  
8           appropriate treatment of the utility customers across  
9           the State. And we will continue to promote  
10          performance-based rate-making strategies, relating to  
11          customer service as alternatives to traditional cost  
12          of service regulations.

13                      Next slide, please. This concludes my  
14          presentation on the Customer Service Performance  
15          Report for 2021. And I am happy to answer any  
16          questions. Thank you.

17                      CHAIR CHRISTIAN: Thank you, Ms.  
18          Whitaker. I do have a question about the negative  
19          revenue adjustment for Central Hudson. You stated  
20          earlier that this was -- they claimed the driver of  
21          this is from the implementation of their billing  
22          system. Is that correct?

23                      MS. WHITAKER: Yes.

24                      CHAIR CHRISTIAN: Okay. And to be  
25          clear, this is for the period of 2021?

1 6-16-2022 - Monthly Meeting - Albany, New York

2 MS. WHITAKER: Correct.

3 CHAIR CHRISTIAN: Okay. So any  
4 additional issues for 2022 would be treated  
5 separately next year, I assume?

6 MS. WHITAKER: Yes.

7 CHAIR CHRISTIAN: Got it. Okay. So  
8 this is not the entirety of the consequences they may  
9 face for that billing issue --

10 MS. WHITAKER: Correct.

11 CHAIR CHRISTIAN: -- based on this  
12 performance metric.

13 MS. WHITAKER: Uh-huh.

14 CHAIR CHRISTIAN: Okay. Great.

15 Second question. Regarding estimated bills, it's  
16 near and dear to me, something I used to deal with as  
17 a customer for many years. I'm curious if you could  
18 expand upon how the estimated bills are calculated.  
19 In a prior life, I would get an estimated bill over a  
20 period of several months.

21 Would that be considered one single  
22 incident, or would that be considered an incident  
23 each and every month? Just curious to see how that  
24 plays out in the metrics if you don't mind?

25 MS. WHITAKER: That would be

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           considered multiple incidents. It is based on each  
3           month's bill that is estimated, if you were to have a  
4           estimated bill twice in one month, that would be two  
5           estimated bills. If you were to have consecutive  
6           months with estimated bills, say you had it in  
7           September, October, November, that would be three  
8           estimated bills.

9                       CHAIR CHRISTIAN: Got it. Okay.  
10          Thank you. And based on your information, is there  
11          any correlation to the rate of estimated bills based  
12          on a utilities deployment of their A.M.I.?

13                      MS. WHITAKER: We have seen trends  
14          where the amount of estimated bills does decrease as  
15          the A.M.I. infrastructure is implemented into a  
16          utility service territory. This is being seen in  
17          ConEdison and in Orange Rockland service territory,  
18          the numbers as the A.M.I. increases, we're seeing  
19          significant declines in that. So it is trending  
20          positively.

21                      THE CHAIR: Thank you very much.  
22          Commissioner Burman.

23                      COMMISSIONER BURMAN: Thank you. And  
24          Val, I think that this was your first time  
25          presenting, right?

1 6-16-2022 - Monthly Meeting - Albany, New York

2 MS. OREIFEI: Yes.

3 COMMISSIONER BURMAN: So thank you and  
4 Kayla, it's your first time presenting in person.

5 MS. WHITAKER: Yeah.

6 COMMISSIONER BURMAN: So as we all  
7 know, the provision of safe and adequate service is a  
8 basic obligation of the utilities. And ensuring  
9 adequate performance in these areas is a critical  
10 aspect of our utility regulation and oversight.  
11 Utilities are generally compensated in rate cases to  
12 provide safe and adequate service to customers.

13 As part of our oversight, we work  
14 through and with the Department of Public Service  
15 staff to monitor how well the utilities meet and  
16 exceed that obligation. And obviously, these  
17 presentations are for information only. But to the  
18 extent that it helps us and gives us guidance on the  
19 appropriate metrics, especially for our future  
20 decision making, not only in rate cases but as we saw  
21 in the COVID arrears proceeding and in relation to  
22 P.R.A.s and N.R.A.s. It's really, really important.

23 Now, last year, I did ask about the  
24 Outage Notification Incentive Mechanism report or the  
25 O.N.I.M., and that's really specific to one utility

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           came about after a neighborhood outage. At that time  
3           last year, I asked for staff to look at and evaluate  
4           performance assessment and lessons that we may learn  
5           from that, not just for that specific utility.

6                       But to me, the focus was on whether  
7           that was something that we needed to look at more  
8           carefully. And whether or not it should be  
9           incorporated more globally for other utilities,  
10          potentially as some best practices. I'm wondering if  
11          there is an opportunity for us to have an update on  
12          the O.N.I.M. And the applicability lessons learned  
13          to measure utility performance in that area for the  
14          rest of the utilities in our State.

15                      Kayla, you may not know the answer to  
16          that. But I would ask that, if anyone does know or  
17          if someone can get back rather than having to wait  
18          another year, that would be helpful.

19                      MS. WHITAKER: Yes, I will take that  
20          back and ask the team.

21                      COMMISSIONER BURMAN: Great. And I'm  
22          not sure, Kevin, do you happen to know anything on  
23          that issue?

24                      MR. SPEICHER: As part of the ConEd,  
25          we -- we were assessing that with the ConEd and with

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           their E.R.P. as well as in the rate case. And we  
3           continue to maintain that O.N.I.M. mechanism for  
4           ConEdison. We felt that was the appropriate measure  
5           to continue to move forward with it. As far as  
6           evaluating that against the other utilities, that's  
7           something we can get back to you on, you know, have a  
8           conversation.

9                         COMMISSIONER BURMAN: Okay. Great.  
10          And I just would emphasize because this is something  
11          that I asked about last year and looking at it so  
12          that if we do -- if it is a way of taking lessons  
13          from that and measuring utility performance and  
14          folding that in, I'd rather us have that conversation  
15          so that it's just not a continued question that I ask  
16          from year-to-year. And then, you know, we're  
17          waiting, so that would be helpful to me. So thank  
18          you so much.

19                        CHAIR CHRISTIAN: Thank you,  
20          Commissioner. Commissioner Alesi.

21                        COMMISSIONER ALESI: Thank you, Mr.  
22          Chairman, no questions, or comments.

23                        CHAIR CHRISTIAN: Thank you,  
24          Commissioner. Commissioner Edwards.

25                        COMMISSIONER EDWARDS: No questions,



1 6-16-2022 - Monthly Meeting - Albany, New York

2 no comments. Thank you.

3 CHAIR CHRISTIAN: Thank you.

4 Commissioner Howard.

5 COMMISSIONER HOWARD: Yeah, I have a  
6 couple of questions. As we all know, we had  
7 tremendous spikes in bills. And when a customer  
8 calls, either the company or -- our number and  
9 complained my bills too high, even though it was  
10 higher and subjectively could be viewed as not high,  
11 but how do -- does that count as a perform -- a  
12 negative performance mechanism toward the company?  
13 Maybe it's a Aric question more than --

14 MS. WHITAKER: If -- so are you saying  
15 if the --?

16 COMMISSIONER HOWARD: This -- this  
17 last year, we had an unprecedented number of calls to  
18 our hotlines, you know, particularly as bills spiked.  
19 The utilities, in most instances, were not at fault  
20 that just as the commodity price went, and people's  
21 bills went higher, both on the supply and the side  
22 for both electric and gas.

23 So how -- do we count them as negative  
24 numbers toward that utility?

25 MR. RIDER: So -- so first off, we --

1 6-16-2022 - Monthly Meeting - Albany, New York

2 we take all complaints.

3 COMMISSIONER HOWARD: No, I got that.

4 MR. RIDER: And to the extent that the  
5 utility -- the customer is complaining about high  
6 prices, we generally follow up with a letter to the  
7 customer, explaining the drivers for those, the  
8 reasons why the -- the prices are high. But it  
9 wouldn't -- might not necessarily count towards -- as  
10 a complaint towards the utility.

11 COMMISSIONER HOWARD: So there  
12 wouldn't be a necessarily a negative rate adjustment  
13 based on, I think the prices are too high, even  
14 though there was no indication that they were not  
15 incorrect?

16 MR. RIDER: I mean, I think -- I hate  
17 to say that every single one is, you know, not  
18 counted because every case is unique. But we look at  
19 it on a case-by-case basis. And to the extent that  
20 the utility doesn't have control over the commodity  
21 prices. In that circumstance, if that was the only  
22 issue, my understanding is that we wouldn't count.  
23 Is that correct, Kayla, is that your understanding?

24 MS. WHITAKER: The initial complaint  
25 would be lodged with the company if it were to become

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           an escalated complaint and the item was not addressed  
3           to the customer satisfaction, that would eventually  
4           be counted against the company.

5                       MR. RIDER: So there is review.

6                       COMMISSIONER HOWARD: It's unlikely we  
7           could make the customer satisfied about higher  
8           prices, correct?

9                       MR. RIDER: Well, so let me just try  
10          to explain this again. If -- if -- we require the  
11          utility to communicate accurately with the customer,  
12          even if they have high bills, it -- it should be the  
13          utility's responsibility to communicate that with the  
14          customer. So if the customer is still unsatisfied  
15          with the response, we would then count that against  
16          the utility.

17                      But we, you know, if we just let the  
18          utility off the hook, then we're concerned that the  
19          utility wouldn't do its best efforts to communicate  
20          why those bills were high to the customer.

21                      COMMISSIONER HOWARD: Well, the reason  
22          I ask is I anticipate, with the -- failure is  
23          probably too strong a word, the large number of  
24          C.C.A. customers, particularly in the ConEd service  
25          territory, who will no longer be C.C.A. customers

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           because these -- the C.C.A. was no longer to be able  
3           to say, secure reasonable supply charges, I would  
4           anticipate they will get many, many complaints  
5           regarding those folks that have reverted back to the  
6           utility tariffs completely, that'd be full-service  
7           customers.

8                         There, I would submit there was  
9           nothing that ConEd necessarily did to make the C.C.A.  
10          promise not come to fruition. So if I -- if I live  
11          in Yonkers, my bill is going up because my -- Yonkers  
12          C.C.A. deal went south, and my bill is going up by  
13          some amount, that I don't see how that would be  
14          ConEd's responsibility to be held responsible for the  
15          customer being unhappy because their bill went up.

16                        COMMISSIONER BURMAN: Aric, can I res  
17          -- can I weigh in for a minute?

18                        MR. RIDER: Sure.

19                        COMMISSIONER BURMAN: Because I think  
20          -- I totally -- I totally get what you're saying.  
21          And I think that what's lost is that there are times  
22          when we have to -- we have to make analysis on why  
23          they're getting this counted or not. And at times, I  
24          think we've had petitions where they've said, it's  
25          not fair that you're ding us here and looking for

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           some relief because like you said, it's -- it's not  
3           their fault, it's the C.C.A.s, et cetera.

4                       So I -- I would say it's important for  
5           us before we get to that to also understand that.  
6           And do you do any analysis with that?

7                       MR. RIDER: Absolutely.

8                       COMMISSIONER BURMAN: And I'm sorry, I  
9           didn't mean to jump in but --.

10                      MR. RIDER: No. But the staff does,  
11           you know, do an analysis on every single case. But  
12           we -- but I think the point that I'm trying to drive  
13           here is that we want the utility to make its best  
14           efforts to communicate issues with the customer. And  
15           --.

16                      COMMISSIONER HOWARD: All right.  
17           Well, that -- to that extent, right. Whose  
18           responsibility will it be in Westchester when many  
19           thousands of C.C.A. customers migrate back to the  
20           utility? Is it up to the C.C.A. to communicate, hey,  
21           you're not our customer anymore or is it up to ConEd  
22           to say, hey, you're our customer -- full service  
23           customer again. And this is the reason why?

24                      MR. RIDER: I would think more  
25           communication is better. And if a customer is

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           calling the utility to get information about what is  
3           happening, then we -- I think it's the utility's duty  
4           to explain accurately what is happening. And if the  
5           customer is still unsatisfied and is calling the  
6           Department and with concerns, you know, we take that  
7           very seriously. We want to make sure --

8                       COMMISSIONER HOWARD: I got it. I  
9           just -- it's just this issue of this particular issue  
10          and I submit that many thousands of customers did in  
11          the opt out localities didn't know they were C.C.A.  
12          customers. They still get their bill from ConEd. So  
13          as that is preparing to change, I think we need to  
14          gird ourselves and figure out a -- with the company  
15          in the C.C.A.s, you know, an effective proactive  
16          communication strategy to let folks know your bill is  
17          going up and this is why.

18                      And it may be embarrassing or  
19          unpleasant for the C.C.A. administrators. But I  
20          think it's absolutely necessary for transparency  
21          purposes to let customers know that the rates didn't  
22          change, nothing changed, it just that the local  
23          government bought electricity from a third party. It  
24          went south, you're now back with the host utility.

25                      So I think that's going to be very,

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           very important going forward. And so but other than  
3           that, that's my biggest concern. And my question is,  
4           particularly in this period of prolonged high bills  
5           because we're going to have prolonged high bills that  
6           -- that how we -- how we -- how we adjudicate that in  
7           regard to utility performance.

8                       Even for those items that are out of  
9           their control, but that's it. Thank you. And I  
10          look, you know, again, Aric, I would like to have a  
11          discussion private, you know, about how we are going  
12          to deal with that C.C.A. issue. Thank you.

13                     MR. RIDER: Of course.

14                     CHAIR CHRISTIAN: Yeah, I -- I want to  
15          add on to that. I think you make an interesting  
16          point, Commissioner Howard and this is something we  
17          will have to consider. And I think the key word here  
18          is attribution, right, we want to make sure that the  
19          issue that is causing the customer to be unsatisfied,  
20          is being appropriately attributed in the right way.

21                     And so that I think that's a  
22          conversation that we're going to have to have after  
23          this and think about that a little bit more using the  
24          examples you have both cited today, Commissioner  
25          Burman and Commissioner Howard. So thank you for

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           that. And thank you for your explanation, Aric.

3                       MR. RIDER: Thanks.

4                       COMMISSIONER HOWARD: And good job,  
5           Kayla.

6                       CHAIR CHRISTIAN: Okay. Moving on,  
7           Commissioner Edwards. Sorry, Commissioner Valesky.

8                       COMMISSIONER VALESKY: Thank you,  
9           Kayla for your report, I have no questions or  
10          comments.

11                      CHAIR CHRISTIAN: And Commissioner  
12          Maggiore.

13                      COMMISSIONER MAGGIORE: I also have no  
14          questions but thank you very much for the  
15          presentation.

16                      CHAIR CHRISTIAN: Great. Thank you  
17          everyone. Thank you, Ms. Whitaker. All right. On  
18          to our next item. Our eighth, sorry, our seventh  
19          item for today. Item 301, case 22-E-0206, the 2021  
20          Electric Safety Standards Performance report will be  
21          presented by Mr. Philipose Philip. Mr. Philip,  
22          please --.

23                      MR. PHILIP: Good afternoon, Chair and  
24          Commissioners. Today I will be providing an overview  
25          of the Electric Safety Standards and the utilities



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           compliance for 2021. This is for information only.  
3           Next slide, please. I will start with some  
4           background information on the Electric Safety  
5           Standards.

6                       The Order of Safety Standards were  
7           adopted by the Commission in January 2005. The  
8           standards included stray voltage testing and visual  
9           inspection of electric facilities on an annual basis  
10          and the adoption of the National Electrical Safety  
11          Code, N.E.S.C. as the minimum standard for utility  
12          construction, maintenance, and operation.

13                      The overall goal of the safety  
14          standards is to safeguard the public from exposure to  
15          stray voltage, and to identify, and mitigate any  
16          potentially harmful condition before safety hazards  
17          and/or reliability deficiencies develop. 2021 marked  
18          the 17th year of the Electric Safety Standards or the  
19          2nd year of the 4th 5-year cycle. Next slide,  
20          please.

21                      The utilities are required to test  
22          their underground system and streetlight facilities  
23          on an annual basis. While manual testing their whole  
24          distribution and transmission facilities on a five-  
25          year cycle. With regards to testing, inspectors

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           carry a pen-like device that lights up red when  
3           voltage is detected.

4                       4.5 volt is the calibrated threshold  
5           of the device as that is the voltage limit where the  
6           potential for injury becomes concerning. However,  
7           the device does signal for lower voltages. Once  
8           voltage is detected, the facility is then tested with  
9           a digital voltmeter to record actual readings. All  
10          voltage findings of one volt or more are required to  
11          be recorded and mitigated.

12                      In total, there were only 245 voltage  
13          findings for manual stray voltage testing of one volt  
14          or more, or approximately 0.03 percent of the roughly  
15          one million facilities tested in 2021. This graph  
16          shows the historical findings for manual stray  
17          voltage testing going back five-years. The blue  
18          section shows the findings between 1 and 4.4 volts,  
19          and the red sections show the findings that are 4.5  
20          volts or greater.

21                      The 2021 total number of stray voltage  
22          test findings stayed roughly the same at the 1 to 4.4  
23          volts level. However, the 4.5 volts and greater  
24          levels saw a significant -- significant decrease,  
25          mainly attributed to a reduction in findings on

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           streetlights at Con Edison. Streetlights continue to  
3           be the largest facilities grouping with stray voltage  
4           findings.

5                         For example, in 2021, out of the 245  
6           find -- findings, streetlights accounted for 174 of  
7           those findings. As part of the Electric Safety  
8           Standards, the utilities are required to test all  
9           publicly accessible streetlights regardless of  
10          ownership. If an issue is found with a streetlight  
11          that the utility does not own, that utility is  
12          required to make the condition safe. It is  
13          ultimately the responsibility of the municipality  
14          that owns the streetlight to make necessary repairs.

15                        Next slide, please. For mobiles stray  
16          voltage testing per Commission order, twelve mobile  
17          surveys are record in New York City, two in Buffalo,  
18          and one each in Yonkers, White Plains, New Rochelle,  
19          Albany, Niagara Falls, and Rochester every year. The  
20          Upstate locations are selected due to the population  
21          density of 50,000 plus. Again, any voltage findings  
22          of one volt or more is reported and mitigated.

23                        In 2021, there was 6200 voltage  
24          findings in the three utility service territories  
25          where mobile stray voltage testing is required, which

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           is down from 6810 findings in 2020. This graph  
3           represents the total number of stray voltage findings  
4           across the State using the mobile testing units for  
5           the last five years. Blue represents Con Edison  
6           findings, red represents National Grid, and green  
7           represents Rochester Gas and Electric.

8                       As you can see, Con Edison makes up  
9           the clear majority of the mobile stray voltage  
10          findings based largely on the number of scans  
11          completed and the size of its underground system.  
12          Next slide, please.

13                      Electric facility. Per the Electric  
14          Safety Standards, the utilities are required to  
15          complete visual inspections on 20 percent of the  
16          facilities each year. So that 100 percent of the  
17          utilities transmission and distribution facilities  
18          will be inspected at least once every five years.  
19          2021 was the 2nd year of the 4th full cycle of the  
20          inspection program.

21                      All utilities have completed  
22          approximately 40 percent inspection of assets in  
23          compliance with the standards. For inspections, 2021  
24          saw the downward trend continuing overall deficiency  
25          found by the electric utilities with a total of

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           approximately 75,000 deficiencies found. That is a 8  
3           percent reduction compared to the approximately  
4           81,000 found in 2020 and a 66 percent reduction from  
5           approximately 220,000 deficiencies found back in  
6           2014, the highest deficiency recorded in the last 10  
7           years. Next slide, please.

8                       For PSEG Long Island, they are not  
9           subject to the Commission safety standards as they  
10          and system operator LIPA are not regulated by the  
11          Commission -- Commission. Through discussions with  
12          the D.P.S. staff, PSEG Long Island began a facility  
13          inspection and stray voltage testing pilot program in  
14          2020 and is continuing to test and inspect  
15          approximately 10 percent of its system assets on an  
16          annual basis.

17                      In total, PSEG Long Island tested and  
18          inspected approximately 40,000 facilities in 2021,  
19          and found a total of 7 stray voltage cases, which is  
20          0.018 percent of the facilities tested and 494  
21          inspection deficiencies, which is 2.8 percent of  
22          those inspected. Of those 1003 deficiencies found,  
23          level -- 13 were level one, 430 on level two, and 44  
24          level three.

25                      This graph represents the total number

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           of stray voltage findings and inspection deficiencies  
3           found across PSEG Long Island area for the last two  
4           years. The red shadow represents 2020 and the blue  
5           shadow represents 2021. The company will continue  
6           the pilot program in 2022 to test and inspect an  
7           additional 10 percent of the facilities, targeting  
8           areas where the highest rate of deficiencies is  
9           expected. Next slide, please.

10                       In summary, the New York utilities  
11           have met and complied with the requirements of the  
12           Commission's Electric Safety Standards for 2021.  
13           That completes my presentation. I can answer any  
14           questions that you may have. Thank you.

15                       CHAIR CHRISTIAN: Thank you,  
16           Philipose. I have one question about the manual  
17           stray voltage and the mobile stray voltage testing.  
18           Are -- are all of these findings specific to utility  
19           owned facilities or were some of these found on the  
20           customer side?

21                       MR. PHILIP: Customer side also.

22                       CHAIR CHRISTIAN: Customer side also.

23                       MR. PHILIP: Yes, yes.

24                       CHAIR CHRISTIAN: Can -- can you speak  
25           to the percent share of the difference between the

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           utility owned or the utility issues versus the  
3           customer side issues?

4                   MR. PHILIP: I'll have to get back to  
5           you.

6                   CHAIR CHRISTIAN: Okay. Okay. Okay.  
7           Thank you very much. Yeah. No further questions.  
8           Commissioner Burman?

9                   COMMISSIONER BURMAN: Thanks. First  
10          of all, congratulations on your first time presenting  
11          in your new role so much appreciated. I just think  
12          it's important to remind everyone what you said.  
13          2021 marked the 17th year for the Electricity Safety  
14          Standards. That's a significant amount of time, and  
15          we've learned a lot of lessons in this time period.  
16          And it's really something for us to take note on.

17                   There's a lot of hard work that goes  
18          into this with staff, with the utilities, and then  
19          coming before the Commission every year annually  
20          updating, but also, it's on a 5-year cycle and taking  
21          time to look and see. Obviously, it came about from  
22          the tragic event. And then we've made a lot of  
23          significant, really positive improvements to the way  
24          we try to make sure that we're -- we're focused on  
25          safety, and increasingly improving on that and making

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           sure that we're doing what we need to do.

3                       So just really want to sort of  
4           underscore the importance to me of this and the  
5           anniversary that we're -- that we have. So this is  
6           at its core about electric safety, and it really goes  
7           to our foundational regulatory duty. And I thank  
8           you, I thank staffs' dedicated oversight and  
9           vigilance. There does seem to be a good and steady  
10          progress.

11                      And we see the positive impact of how  
12          we incorporated in some fashion PSEG Long Island into  
13          this informational review. And that's I think, very  
14          helpful from a Statewide perspective doing that. I  
15          recognize we don't have direct oversight, but to have  
16          that information and to look at that is important.

17                      I do have a few comments. The first  
18          relates to while we see the positive trends, we do  
19          continue to have an -- from year to year stray  
20          voltage concerns in street lighting. It's something  
21          that we continue to be challenged with and it's  
22          something that, you know, we -- every time we approve  
23          a street lighting order, very mindful of that  
24          increased enrollment and what that means, and also  
25          looking at our responsibility for continuing



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           education of not just the public, but also the  
3           municipalities and others who are undertaking street  
4           lighting and dealing with infrastructure upgrades.

5                       So it continues, for us to be  
6           something to look at, especially as we're now also,  
7           as we talked before about the broadband rollout, it's  
8           something for us to also keep in mind. Two, we --  
9           with this, we have increased many of the poles and  
10          other things going from the utilities to the  
11          municipalities, obviously, we have other proceedings,  
12          including the pole attachment proceeding.

13                      And this transfer really is important  
14          for us to be mindful of that the municipalities  
15          understand their responsibility. And when there is  
16          other things that we still retain safety control over  
17          and the utility does, making sure that there is not a  
18          disconnect in who is to do what and what is  
19          responsible, what people are responsible for, and  
20          that we're also communicating and collaborating on  
21          that.

22                      The third is, as we saw with the  
23          broadband item earlier, again, this gets back to the  
24          increased use of the poles for attachments,  
25          especially as we do a lot of the installations. And

1 6-16-2022 - Monthly Meeting - Albany, New York

2 I just really am focused on understanding that all of  
3 this work puts new demand and stress on the electric  
4 service load as well.

5 And the new employees that may be  
6 doing this for the first time, perhaps needing to  
7 ensure that we're all really focused on the  
8 additional stress of what that means from the  
9 technical perspective, but also from a safety  
10 perspective is really, really important.

11 The fourth is I -- I would surmise, I  
12 really believe and I know that I keep saying it, but  
13 this increase with stray voltage issues and other  
14 safety issues, the more we have going down the road  
15 with infrastructure upgrades, especially, you know,  
16 for me, it's important that we really help to ensure  
17 that the culture of safety is paramount, not only by  
18 the utilities who -- it's also their bread and butter  
19 to keep that fore -- forefront, but the third parties  
20 that are involved in these -- these activities, and  
21 really understand that.

22 And then the fifth and last thing is,  
23 I'm particularly focused on understanding the current  
24 standard that PSEG and LIPA are following. So if I  
25 remember in 2020, PSEG and LIPA voluntarily committed

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           to a facility inspection and stray voltage testing  
3           pilot program. And then in 2021, they committed to  
4           voluntarily extending that stray voltage pilot  
5           program to inspect an additional 10 percent of  
6           facilities and targeting areas where the highest rate  
7           of deficiencies were.

8                         Now, again, I do recognize that PSEG  
9           Long Island is not subject to the Commission's safety  
10          standards as PSEG Long Island and the system owner  
11          LIPA, you know, are not regulated by us. But I want  
12          to really kind of hone in on making sure that we,  
13          when we are looking at this from an information  
14          perspective, but also as we go back out there, that  
15          we are focused on ensuring that we are properly  
16          looking at what they're doing and understanding where  
17          there may be a difference.

18                        And so I appreciate sort of their  
19          voluntarily being a part of it, but I did express  
20          last year that I didn't think that was enough. And I  
21          wanted them to follow what the other utilities were  
22          doing and step up and frankly, increase it even more  
23          so. I don't know, you know, if those words landed.  
24          So I'm just kind of looking for some guidance on what  
25          that means in the status of all that now. And

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           Philip, I don't expect you to know the answer to  
3           that.

4                       MR. PAUSE: I was going to comment on  
5           a little bit. So when we reached out to PSEG Long  
6           Island, and you know, they provided the numbers.  
7           Luckily, the numbers are low in their service  
8           territory. So that's -- that's a good news story.  
9           And I think they're internally trying to decide  
10          whether or not the cost benefit analysis is -- is  
11          meaningful to complete a full-blown stray-voltage  
12          assessment like the rest of the State required. So  
13          that's part of the discussions that we have asked  
14          about, you know, we can continue to have those  
15          discussions with them.

16                      COMMISSIONER BURMAN: Let me make it  
17          clear. The other utilities are doing it, they should  
18          step up and do it. End of story. Thank you very  
19          much.

20                      CHAIR CHRISTIAN: Thank you,  
21          Commissioner Burman. Commissioner Alesi.

22                      COMMISSIONER ALESI: Thank you.  
23          Nothing further.

24                      CHAIR CHRISTIAN: Thank you.  
25          Commissioner Edwards.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 COMMISSIONER EDWARDS: No, I just want  
3 to echo Commissioner Burman's points.

4 CHAIR CHRISTIAN: Okay. Thank you,  
5 Commissioner. Commissioner Howard.

6 COMMISSIONER HOWARD: Yeah. Can  
7 somebody walk me through what happens physically,  
8 with a third-party owned streetlight that a stray  
9 voltage hit -- hits? Is -- it says the utilities are  
10 obliged to make it safe. Correct. That doesn't mean  
11 they're obliged to make it work, correct?

12 MR. PAUSE: Correct.

13 COMMISSIONER HOWARD: So if there is a  
14 stray voltage hit on a municipally owned streetlight,  
15 the answer will be for the utility, turn it off and  
16 tell them it doesn't -- you got a problem?

17 MR. PAUSE: Correct.

18 COMMISSIONER HOWARD: Okay.

19 MR. PAUSE: They will -- they will,  
20 you know, right off the get go, they'll make sure  
21 that the, you know, area is monitored, and it's  
22 either barricaded off so that there is no, you know,  
23 possible public contact or exposure. And they'll  
24 reach out to the municipality to --.

25 COMMISSIONER HOWARD: Right. But who

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           is under -- they are under no obligation to fix it?

3                   MR. PAUSE: They, as far as the  
4           utility?

5                   COMMISSIONER HOWARD: No, the  
6           municipality.

7                   MR. PAUSE: That --.

8                   COMMISSIONER HOWARD: When it was  
9           utility owned, we had performance measures on  
10          streetlight-age -- outages, and they had -- there  
11          was a negative regu --.

12                  MR. PAUSE: It's their responsibility  
13          to fix it and if they decide they don't want to --.

14                  COMMISSIONER HOWARD: Correct. If  
15          they don't fix it, there is no remedy.

16                  MR. PAUSE: Correct. Not at this time  
17          from -- at least from our perspective.

18                  COMMISSIONER HOWARD: And if the  
19          utility demonstrates that the practice or the O.N.M.  
20          on these municipal poles, streetlights are trending  
21          badly, you know, the Village X or Town Y, you know,  
22          they bought them and like everybody else, government,  
23          well, maybe we won't fix the streetlights right away.

24                         Is there a -- is there a mechanism by  
25          which the utility says look, you know, we're never

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           going to -- you got to fix this. And these are our  
3           standards and do the utilities come back to inspect  
4           that repair?

5                       MR. PAUSE: So at this time, there  
6           isn't anything in place for them to go back and  
7           verify that that's completed or that, you know,  
8           there's been poor practices for -- for those repairs,  
9           at this time.

10                      COMMISSIONER HOWARD: I suggest that's  
11           a -- that's a pretty big hole. And again, to  
12           Commissioner Burman's point about certainly on the 5G  
13           build out. Many of which individual municipalities  
14           indicated that when they purchased the street  
15           lighting assets from utility, this was a revenue  
16           opportunity for the municipalities to do 5G  
17           implementation on their new municipally owned  
18           infrastructure.

19                      Again, I have great concern -- less  
20           concern on utility owned infrastructure with the 5G  
21           installations just because of the nature, but I have  
22           great concern on municipally owned infrastructure  
23           with 5G attachments. And to your point that the only  
24           remedy that the utility has is that if there is a  
25           stray voltage for any reason, whether it's the 5G

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           attachment went wrong or to some other -- other  
3           problem is that to turn it off, and in that case,  
4           they will turn that over, not just the streetlight  
5           off, but the 5G appliance as well. Is that correct?

6                   MR. PAUSE: I mean, I guess, from the  
7           stray voltage standpoint, you know, there'll still be  
8           testing done of that facility even though that  
9           ownership changes so.

10                   COMMISSIONER HOWARD: Right.

11                   MR. PAUSE: If there were say a single  
12           facility was identified with stray voltage on a  
13           second round, I think that would flag a concern.  
14           Flag as an issue and follow up from -- from that  
15           standpoint.

16                   COMMISSIONER HOWARD: Yeah. I guess  
17           this is going to be, we will see the performance of  
18           municipalities as these -- their newly owned  
19           infrastructure ages and -- and is exploited for other  
20           purposes but.

21                   MR. PAUSE: Yeah. I mean, to date, we  
22           haven't heard of those concerns from the utilities.  
23           But obviously, if we did, we will certainly follow up  
24           on those.

25                   COMMISSIONER HOWARD: Great. All



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           right. Thank you very much.

3                   CHAIR CHRISTIAN: All right. Thank  
4           you, Commissioner. Commissioner Valesky.

5                   COMMISSIONER Valesky: Thank you for  
6           your report. No questions or comments.

7                   CHAIR CHRISTIAN: Commissioner  
8           Maggiore.

9                   COMMISSIONER MAGGIORE: I also have no  
10          questions, but I do want to thank you for your  
11          presentation.

12                  CHAIR CHRISTIAN: Excellent. Thank  
13          you very much. Thank you all. All right. Now, we  
14          will transition to our eighth and final discussion  
15          item for today. Item 302, Case 22-E-0134. Which is  
16          the 2021 Electric Reliability Performance Report,  
17          which will be presented by Ms. Mary Ferrer.

18                  MS. FERRER: Thank you and good  
19          afternoon, Chair, Commissioners. Today, I will be  
20          providing you with a brief Statewide summary of New  
21          York's Electric Reliability Performance for 2021.  
22          Staffs' written report provides additional  
23          information and individual reviews for each of the  
24          major electric utilities. Next slide, please.

25                  Each year staff performs an analysis

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           of Electric Reliability Performance based on monthly  
3           interruption data submitted by the electric  
4           utilities. Staff uses this data to calculate  
5           frequency and duration of interruptions and identify  
6           trends.

7                         Frequency is affected by factors such  
8           as system design, capital investment, maintenance  
9           practices, and weather. Decisions made by utilities  
10          today, however, can take several years before being  
11          fully reflected in the frequency measure.

12                        Duration is affected by workforce  
13          levels, workforce management, and geography. Policy  
14          changes can have a more immediate effect on duration.  
15          By reviewing the data both with and without major  
16          storms, we can achieve a balance between  
17          interruptions under the utilities' control, such as  
18          equipment failures, and those where the utility may  
19          need to implement resiliency measures to prevent  
20          interruptions.

21                        It should be noted that some of the  
22          statistics presented today reflect 38 storm events  
23          that occurred last year. However, from the  
24          customer's point of view, 2021 was one of the best  
25          years regarding major storms since 2016.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 Reliability Performance Mechanisms, or  
3 R.P.M.s include companywide targets for frequency and  
4 duration. R.P.M. targets are established in each  
5 rate case, and electric utilities are subject to  
6 negative revenue adjustments for failing to meet  
7 R.P.M. targets.

8 Con Edison, National Grid, Orange and  
9 Rockland and PSEG Long Island all met the reliability  
10 targets in 2021. Central Hudson failed to meet both  
11 its frequency and duration targets, mostly due to  
12 tree contacts during minor storms.

13 As a result, Central Hudson will --  
14 will incur a negative revenue adjustment of  
15 approximately \$5.2 million. Approximately 70 percent  
16 of tree-related interruptions are caused by limbs and  
17 trees from outside the clearance zone.

18 To address tree-related interruptions,  
19 Central Hudson will modify its 2022 trimming schedule  
20 to shift resources to areas with the most beneficial  
21 impact on frequency performance. Circuits  
22 demonstrating good reliability performance in 2021  
23 will be trimmed in 2023.

24 In addition, Central Hudson identified  
25 21 circuits for hazard tree removals in 2022. NYSEG

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           failed its target for frequency for the third  
3           consecutive year, incurring a negative revenue  
4           adjustment of \$7 million. Trees continue to be the  
5           largest cause of interruptions for NYSEG, accounting  
6           for approximately 50 percent of the interruptions.

7                       NYSEG added two tree related programs  
8           aimed to improve reliability as part of its 2020 rate  
9           case. The first program reclaimed circuits that have  
10          not been trimmed in over 5 years, and the second  
11          program proactively addresses danger trees outside of  
12          the right of way.

13                      NYSEG, however, does not appear to be  
14          applying these programs efficiently as they continue  
15          to perform poorly. Similar to Central Hudson, NYSEG  
16          should shift vegetation resources to the worst  
17          performing areas in order to have the most beneficial  
18          impact on frequency performance.

19                      For the past 20 years, RG&E has  
20          consistently maintained high levels of electric  
21          service reliability for both frequency and duration.  
22          In 2021, RG&E failed to meet its frequency target,  
23          incurring a negative revenue adjustment of \$5  
24          million.

25                      Pre-arranged outages jumped from the

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           fourth leading cause of interruptions for NYSEG in  
3           2020 to the top cause in 2021. Most of these  
4           interruptions were due to the broadband expansion  
5           work in the area. It's expected these outages will  
6           lessen over time once the broadband network is  
7           deployed. Next slide, please.

8                         This graph shows the frequency  
9           performance for the last 5 years statewide. Since  
10          Con Edison's networks are usually less prone to  
11          interruptions and overhead systems, and Con Edison  
12          serves a large percentage of the State's electric  
13          customers, Con Edison's data can skew the overall  
14          statistics.

15                        As a result, we also review the data  
16          with and without Con Edison. Excluding major storms,  
17          the Statewide interruption frequency for 2021 remain  
18          the same as last year. This is slightly worse than  
19          the Statewide 5-year average.

20                        The '21 interruption frequency for all  
21          utilities other than Con Edison was worse than last  
22          year in the 5-year average. On average, customers  
23          experienced one interruption every 17 and a half  
24          months. For utilities other than Con Edison,  
25          customers on average experienced one interruption

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           every 11 months.

3                       The major causes for interruptions  
4           excluding major storms were equipment failures and  
5           tree contacts. To reduce the frequency of  
6           interruptions, utilities invest in capital projects,  
7           inspections, and maintenance activities. Next slide,  
8           please.

9                       This graph shows duration performance  
10          for the last 5 years on a Statewide basis, excluding  
11          major storms, again, showing performance with and  
12          without Con Edison. Including major storms, both the  
13          Statewide interruption duration index, and the  
14          Statewide interruption duration index, excluding Con  
15          Edison improved, indicating there was less damage  
16          caused by major storms in 2021.

17                      The Statewide duration was 2 hours and  
18          47 minutes. This is about 4 hours and 19 minutes  
19          shorter than 2020, and 2 and-a-half minutes longer  
20          than the statewide 5-year average. The Statewide  
21          duration for utilities other than Con Edison was 2  
22          hours and 42 minutes in 2021, which is 1 minute  
23          longer than 2020 and approximately 2 and-a-half  
24          minutes longer than the Statewide 5-year average.  
25          Next slide, please.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 As can be seen in the graph, 2021 was  
3 one of the best years from the customer's point of  
4 view regarding interruptions caused by major storms  
5 since 2016. The State experienced 38 separate storm  
6 events that qualified as major storms in 2021.

7 While this is 9 more events than 2020,  
8 customers affected by major storms and customer hours  
9 of interruption decreased. Without Tropical Storm  
10 Isaias, shown in the darker blue, the overall  
11 customer experience during 2020 would have been  
12 similar to 2021. Thank you. That concludes my  
13 presentation. We would be happy to answer your  
14 questions.

15 CHAIR CHRISTIAN: Thank you, Ms.  
16 Ferrer. This was an interesting read, in part  
17 because as I'm sure you all know, as we move forward  
18 with our goals towards meeting the C.L.C.P.A., our  
19 dependence on the electric grid is going to become  
20 greater and greater. So ensuring reliability to  
21 customers takes on a level of importance, an even  
22 higher level of importance than it has in the past.

23 So I'm encouraged to see the results  
24 shown here, particularly, the last chart. I -- I  
25 don't think I've heard it articulated so well just

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           how extreme 2021 was. And our performance in that  
3           period was pretty good with all things considered.  
4           So that shows -- that's an indication that things are  
5           going well at least in the right direction. But one  
6           thing we have to be careful of is not to get  
7           complacent and to be prepared for what may come next.

8                     The storms are getting worse and  
9           worse. And I see everybody nodding in the back. We  
10          have to continuously evolve our practices and be  
11          ready for what may comes next. So thank you for  
12          preparing us and presenting this to us today.  
13          Looking forward to seeing how this evolves over time.

14                    MS. FERRER: You're welcome.

15                    CHAIR CHRISTIAN: Thank you.

16          Commissioner Burman.

17                    COMMISSIONER BURMAN: Thank you so  
18          much. I can't underscore enough the issues of system  
19          reliability and resiliency and how important it is.  
20          Especially, as we enter the summer season and looked  
21          at -- look at load shifting concerns.

22                    But I think it's -- it's kind of where  
23          we started in the beginning of this session in 102,  
24          that it was really for me something to sort of see  
25          very clearly how important this is. And to take note



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           of kind of where we've been, where we are, and where  
3           we're going. You know, there is a couple of things  
4           that really have me frankly, very concerned.

5                       It is that -- it is not just the same  
6           as it always was. It is important for us to  
7           acknowledge that we have a lot of more work we need  
8           to do in a critical amount of time. And, you know,  
9           NERC has raised significant concerns on reliability  
10          and the needs that need to be there.

11                      It is also for me, in looking at this  
12          just today, E.I.A. put out a information item that  
13          they expect significant increases in the wholesale  
14          electricity -- electricity prices this summer, in  
15          their latest short term energy outlook.

16                      They expect prices this summer in  
17          wholesale electricity markets to significantly  
18          increase. They forecast electricity prices in the  
19          northeast region, including in the New York I.S.O.  
20          markets will exceed \$100 per megawatt between June  
21          and August 2022. That's up from an average of about  
22          \$50 megawatts last summer.

23                      And the situation is pretty, I think,  
24          frankly, dire. And I don't think I'm being an  
25          alarmist. When we look things that, you know, used

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           to be, oh, that could never happen, are happening.  
3           And we need to take stock of that. Australia just  
4           announced this week that they were suspending their  
5           electricity market. And that's unprecedented.  
6           They're in their winter. So for us, that is a signal  
7           of what is to come when we're looking at this and to  
8           also take note of that.

9                       The primary mission of the New York  
10          State Department of Public Service that we have on  
11          our website says it's to ensure affordable, safe,  
12          secure, and reliable access to electric gas, steam,  
13          telecommunications, and water services for New York  
14          State's residential and business consumers while  
15          protecting the natural environment. And the  
16          Department also seeks to stimulate effective  
17          competitive markets for clean, renewable, and  
18          distributed energy resources that benefit New York  
19          consumers as well as product and service innovation.

20                     That mission statement was updated  
21          during Revs, and this is -- a lot of what we've been  
22          doing has been trying to implement a -- a new clean  
23          energy future. I support that. My raising these  
24          challenges is not to say we should stop. My -- my  
25          real hope is that we look carefully. We are focused

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           on how do we facilitate decarbonization policies  
3           responsibly, reliably, and cost effectively.

4                       We cannot shirk our responsibility on  
5           system reliability at low cost. We have to look at  
6           things like resource adequacy implications. We have  
7           to look at things like seasonal risk shifts. We have  
8           to look on how this impacts generation and the load  
9           issues that come. It's not enough for us to say, oh,  
10          it's the fault of X, Y, and Z. We own it.

11                      This is our responsibility. This is  
12          for us to have our partners also understand that we  
13          can no longer be on the outside, looking in. We need  
14          to be able to be involved in a way that helps from a  
15          collaborative partnership and understanding that  
16          paramount to all of this is reliability.

17                      What that means is the way we, as --  
18          as reliability, economic energy regulators, who also  
19          consider the environmental attributes, who also,  
20          again, it's in our mi -- it's in the Department's  
21          mission. It's in what we do, that it means that our  
22          environmental regulator also needs to understand that  
23          while they may not have a direct linkage to  
24          reliability, it is something that is a threshold  
25          issue.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 And so the impact that may or may not  
3 happen is not just, well, that's somebody else's  
4 problem. The P.S.C. can do that. No, we can't. If  
5 we are having to, it's not fair. It's not fair, not  
6 just to the P.S.C. and to the staff and to others,  
7 it's not fair to New Yorkers.

8 If we are not able to get ahead of  
9 this, we cannot go to the brink of the cliff. It --  
10 we are getting too close. We don't have bungee cords  
11 to bring us back up. We've got to be able to address  
12 this in a way that's responsible and reasonable and  
13 do it in a way that we get ahead of this.

14 I don't want to be Australia. I don't  
15 want to be Ohio. I don't want to be California. I  
16 don't want to be Texas. We have the tools. I think  
17 we have to bring as many of the smartest minds  
18 together in a way that is actually getting us to talk  
19 about the elephants in the room that is driven in  
20 solution based real reasonable discussion. Making  
21 sure we have the technical expertise in there and not  
22 just to have to beg for being listened to.

23 The C.L.C.P.A. itself has a backstop  
24 on reliability. It -- it -- the law itself  
25 understands paramount to all of this is reliability.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 So I guess I would just in really making sure that we  
3 are faced on looking carefully at what can be done.

4 Just like before, when I said last year, I said, what  
5 was, you know, what I wanted to see from LIPA. And  
6 now it's a year later and you know, it's on a  
7 different topic.

8 I've been speaking this since 2013,  
9 since I came here. I don't feel that we are any  
10 closer. In fact, I'm getting more scared. And so  
11 for me, you know, when I look, we have to be able to,  
12 as a -- figure it out and be focused on grid planning  
13 to meet C.L.C.P.A. in a way that's making sense.

14 I know just yesterday we had a  
15 technical conference on grid planning. We can give a  
16 lot of activities that we're doing. We can. We can  
17 point to a lot. But I'm still not seeing penetration  
18 in actually making a difference. And it's like ants.  
19 Ants can be busy, but what are they busy doing.

20 I don't want staff and stakeholders  
21 wasting their time in coming back and trying to make  
22 some sys -- some changes when ultimately we're still  
23 punting on things. We're still dealing with it. The  
24 elephant in the room to me is that we have to address  
25 it. We have to -- we have to partner in a more

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           holistic, more collaborative way with our sister  
3           agencies and they have to partner with us.

4                       They have to understand that. And  
5           they have to understand when we are saying we are  
6           scared, it's not just us. It's not just me. It's  
7           others. The I.S.O., the whispering that goes on  
8           about the -- how people are concerned needs to no  
9           longer -- people need to no longer be afraid to say  
10          it.

11                      I am impassioned about this issue  
12          because I don't feel that it's being heard. And what  
13          I would really want is for us to try to really make a  
14          difference. And again, for me, my focus is on how  
15          can we bring people together in a way that creates a  
16          rational plan with proper timing and does it in a way  
17          where we have a chance now to step up and smooth the  
18          transition that requires D.E.C., P.S.C., NYSERDA, New  
19          York I.S.O., and the Governor's office, get on the  
20          same page. Please do it.

21                      When I look, I see we have the  
22          C.L.C.P.A. tracker. I don't want us to just be  
23          looking at it down the road and tracking us falling  
24          off the cliff. So from my perspective, the focus is,  
25          we need to lead with reliability, and everybody needs

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           to understand that and not just say yes, paramount to  
3           it is -- is reliability.

4                       We need to coordinate. We need to  
5           cooperate. We need to collaborate. We need to  
6           consider rational and all viable options. And then  
7           we need continuous improvement, and we need to be  
8           able to hold ourselves accountable and hold our  
9           partners accountable, because it is not just for us  
10          to have to solve it at the tail end. It's not going  
11          to happen that way. So I implore you, please. So  
12          thank you.

13                      CHAIR CHRISTIAN: All right. Thank  
14          you, Commissioner. Commissioner Edwards. Oh, sorry.  
15          Commissioner Alesi.

16                      COMMISSIONER ALESI: Thank you, Mr.  
17          Chairman. Let me just thank you staff for another  
18          excellent report. I have no questions or comments.

19                      CHAIR CHRISTIAN: All right. Thank  
20          you, Commissioner. Commissioner Edwards.

21                      COMMISSIONER EDWARDS: I have none  
22          either. Thank you very much for the report.

23                      CHAIR CHRISTIAN: All right.  
24          Commissioner Howard.

25                      COMMISSIONER HOWARD: Yeah. Thank

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           you. The issue of resiliency is on everybody's mind.  
3           I view this is a -- a distribution resiliency is what  
4           has pops up in this report. And I think it's very  
5           important for customers and everybody to know  
6           resiliency isn't free.

7                       There are -- there were past cases  
8           before this Commission that may have let some  
9           utilities a little bit off the hook in regard to  
10          vegetation management. And now, we're playing catch  
11          up. As we've seen by the filings from at least one  
12          utility, vegetation management can cost a bundle and  
13          it is the singular best thing we can do for those  
14          parts of the State that have an overhead system is  
15          proper vegetation management.

16                      Along with that is the increasingly  
17          intolerance of customers for outages of any  
18          magnitude, for any reason, whether it be major storm  
19          related or -- or the like. So I think particularly  
20          as we go through this, and I think there are several  
21          items before the Legislature even pending. I say  
22          it's going to be a sign dealing with the issue of  
23          resiliency of the system. I think it's very  
24          important.

25                      So yeah, we can make a bulletproof



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           system. But this Commission and staff we make a  
3           judgment in cases is how much is worth the spending.  
4           You know, if we spend a dollar, we get this much  
5           resiliency regarding vegetation management. We spend  
6           \$2, we get this much more. So it's that balance  
7           that's very important.

8                       As the Chairman pointed out, we will  
9           become more and more and more reliant on our quality  
10          of electricity going forward. It's ironic that we  
11          did a broadband thing. You can't have broadband  
12          without electricity and so they go -- those  
13          reliabilities go hand in hand.

14                     So I think that the real issue, and --  
15          and I think it's going to come before us this year is  
16          real hard judgements on how much spending we put into  
17          particularly distribution resiliency. And I think  
18          it's also very important that we are very transparent  
19          to let customers and other stakeholders and policy  
20          makers know exactly this costs a lot of money.

21                     We want the lights never to go out,  
22          then be prepared to pay X amount more. And then at  
23          the same time, really, and maybe even being more  
24          aggressive for those utilities that are consistently  
25          deficient in -- in some of these metrics,

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           particularly vegetation management.

3                       And I think that would go a long way  
4           from the statistics in front of us that would, you  
5           know, improve service dramatically. But again, it's  
6           two things. It's - it's -- at the end of the day,  
7           it's largely about the money, and the more money we  
8           spend, and we have the better the reliability will  
9           be.

10                      And it's our judgment to make the  
11           judgment of how much is too much and how little is  
12           too little. And that's going to be an ongoing  
13           challenge going forward, I think, not only for this  
14           year, but for the decades to come. But anyway, thank  
15           you. Great job, Mary. And again let's hope we have  
16           a good hurricane season. Okay.

17                      MS. FERRER: Absolutely.

18                      CHAIR CHRISTIAN: Thank you,  
19           Commissioner. Commissioner Valesky.

20                      COMMISSIONER VALESKY: No questions or  
21           comments. Thank you for the report.

22                      CHAIR CHRISTIAN: And Commissioner  
23           Maggiore.

24                      COMMISSIONER MAGGIORE: I also have no  
25           questions or comments, but again, I would like to

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           thank you for the report.

3                   CHAIR CHRISTIAN: All right great.  
4           Thank you, Commissioners. And with that, thank you  
5           staff for your presentations today. We're now going  
6           to move on to the consent agenda. Do any  
7           Commissioners wish to comment on or recuse from any  
8           of the items on today's consent agenda beginning with  
9           Commissioner Burman.

10                   COMMISSIONER BURMAN: Thank you. I  
11           have a couple of items. Item 161, which is the ConEd  
12           non-pipe alternative item. I'm going to be voting no  
13           on this item. I -- and the reason is for me, it gets  
14           back to what I've been saying about non-pipe  
15           alternatives.

16                   I don't see my voting no on this as  
17           putting at risk reliability or resiliency, but I do  
18           see that we are continuing to not get under the hood  
19           on non-pipe alternatives. The item itself make some  
20           comments about Lansing and other -- other utilities  
21           that have also done non-pipe alternatives.

22                   The first non-pipe alternative that I  
23           voted on was the -- the Lansing matter and -- and  
24           M.I. Multiple Intervenors had a petition that they,  
25           or excuse me, they had comments that they submitted

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           in the analysis on why they felt that looking at what  
3           -- what should be looked at in a non-pipes  
4           alternatives.

5                       Thought it was really sound at the  
6           time. And for that, I had voted in approval for a  
7           non-pipe alternative approach. But it was supposed  
8           to come back to us for a relook if there was still  
9           issues. And -- and -- and that was back many years  
10          ago. Been on the Commission nine years already, and  
11          we've had several different items that have come  
12          before us, including on Lansing and non-pipe  
13          alternatives.

14                      And the standard that I had initially  
15          said was sound, has now morphed into non-pipe  
16          alternatives or something that we're pushing, even if  
17          we're not necessarily showing that it's cost  
18          effective or that it is solving the issue.

19                      And so what I would say is I can lean  
20          into non-pipe alternatives as a tool in the toolkit,  
21          but I need to understand the whole -- the whole  
22          toolkit, and I need to understand what we're actually  
23          building. So for me, this item, I don't feel we  
24          should be approving unless we have a much more deeper  
25          conversation on where we're going and what we're

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           doing as a State in these issues and what the  
3           standards are for accountability to address these --  
4           these issues cost effectively from a reliability  
5           perspective and ensuring that we are addressing the  
6           supply and demand needs. The city raises some good  
7           points in why they were concerned about this. And so  
8           I'm going to be voting no.

9                       The next item is Item 362. It's a  
10          Buffalo neighborhood stabilization. It's a petition  
11          for a waiver of the individual meeting requirements.  
12          Now, normally this would be something that I would  
13          vote yes on without comment. I am going to be voting  
14          yes.

15                     But I do think it's important to -- to  
16          highlight this because I had had a question on why  
17          National Grid had submitted comments. They were good  
18          with doing this, but they had submitted some comments  
19          asking for clarification on the -- the current,  
20          really, to me, it seems like the current state of the  
21          regulations and -- and looking at it, it made sense  
22          to me that we put a clarification in the order.

23                     But the submetering regulations and  
24          the tariff that is -- is of concern submetering  
25          regulations, 96.1 A, which is on assisted living

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           facilities and the tariff P.S.C. 220 Rule 8.5. I'm  
3           not going to read it, because it'll take too long.  
4           But there's a segment in there about the need for  
5           certification by DOH.

6                         And we do -- we approve these before  
7           DOH certifies them. And so our clarification in the  
8           order is to say, if your use changes perhaps they  
9           don't get certified and you -- you are now -- your  
10          waiver, you have to come back to us. So you don't  
11          get the waiver if your use changes, the waivers goes  
12          away. And/or if you change ownership hands.

13                        This waiver is of specific to the  
14          applicant, the petitioner, and what I look at and see  
15          in the submetering regs and the tariff, it makes  
16          sense now why National Grid was flagging this because  
17          it may be that we're being too prescriptive, or we  
18          may -- may need to sort of have something change in  
19          both the regs and/or the tariff and not just using  
20          the order as the get around.

21                        So I flag it because I do think it's  
22          worth conversation. We approve, you know, we have a  
23          lot of waivers of -- of individual meters, not just  
24          in assisted living. We've done co -- the college  
25          suite ones. I don't know that we look -- we look at

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           necessarily, what's the status of them 5 years out,  
3           10 years out.

4                       And so it may be that the -- the use  
5           has changed, the waivers need to go. And it may be  
6           that new owners changed hands and they're going to  
7           need to come back to us. Why do we care? If the  
8           waiver goes away, they may have to expend money in  
9           upgrading their equipment. So they better be very  
10          carefully focused on, are you getting a waiver in  
11          anticipation, fine.

12                      But if you're putting in the equipment  
13          and you don't get the proper certification or you  
14          change site -- change your mind and change the use,  
15          or you decide to -- to move it to someone else, you  
16          have to come back or you may be incurring more  
17          expense and you'll be out of compliance as well,  
18          which is a whole other issue.

19                      So I think it's a really wonky  
20          technical thing, but I think it's worth it that we  
21          actually kind of look at that and see what do we need  
22          to do with the tariff and the -- and the regulations.  
23          And also look at what the current status is of the  
24          ones that we've given. I myself would be curious  
25          especially about the college ones.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 And then the other item is Item 370,  
3 which is the transmission item. I -- I'm going to be  
4 voting no on that item. This is one for me that  
5 especially because we just had the -- the conference  
6 yesterday on grid planning and looking at this I want  
7 more information on what we're doing on grid  
8 planning, transmission planning.

9 And when we're looking at this from  
10 the C.L.C.P.A., I want to know how it fits in, in  
11 how, what -- what are we tracking, what are we doing,  
12 and give me some more explanation before I just do,  
13 you know, these consent agenda items and -- and  
14 approve. My only opportunity is really to make sure  
15 that, or my -- my op -- my wish is that we take the  
16 opportunity to really make sure that we are  
17 holistically looking at all of these different items  
18 and understanding the activities that goes behind  
19 them.

20 Item 375, the climate vulnerability  
21 one. I'm going to be voting no, which seems somewhat  
22 concerning to myself voting no. Why am I voting no?  
23 This item should not be on the consent agenda. This  
24 item is considering a proceeding to require major  
25 electric utilities to perform client vulnerability



1           6-16-2022 - Monthly Meeting - Albany, New York  
2           studies followed by implementation plans, subject to  
3           Commission review and consideration.

4                       It requires us collaboratively  
5           discussing it internally and publicly. It comes  
6           because the legislature has given this to us. First  
7           of all, with all due respect, I don't think they have  
8           a full understanding of the -- all that's been done  
9           and being done. I totally applaud increasing climate  
10          vulnerability and looking at studies and making sure  
11          we're evolving in what we need to do.

12                     Just look at the electricity standards  
13          that have been in place for 17 years. Every 5 years,  
14          we do an assessment, and we look. And we do it, and  
15          we make adjustments, and we continuously improve.  
16          The climate vulnerability study coming out of Super  
17          Storm Sandy, the utilities with the P.S.C. and with  
18          D.P.S. did a lot -- a lot of work. This is a huge  
19          cost right now.

20                     I want to know how we are looking at  
21          this and making sure we're not doing it in silo.  
22          This requires all hands on deck. Kevin, your shop is  
23          going to be very busy, and you already have how it  
24          fits. Tammy, your shop -- everybody's shop is going  
25          to be busy.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 Frankly, when I look at this, for me,  
3 this is something that is -- it needs to get flagged,  
4 needs to get looked at, needs to be having elephant  
5 in the room discussions on what are the issues here,  
6 what are the costs, and are there opportunities for  
7 doing other things?

8 Now, someone may say, well, it doesn't  
9 matter, Diane. We're asking them to give us comments  
10 and feedback and implement the plans, and then you'll  
11 have the opportunity. It's again, back end. It's  
12 like the reliability issues. Not at the tail end.  
13 Let's talk about it, initially, at first, let's --  
14 I'd like to see some more technical conferences  
15 before we just go head, you know, head -- head, I  
16 don't know what the word is, but whatever that is.

17 MR. ROSENTHAL: Head and heels.

18 COMMISSIONER BURMAN: Head and heels.  
19 I just want to make sure that we are really, really  
20 focused on this. This is not the only legislation  
21 that got passed and then got signed by the Governor.  
22 There are implications for that. We need to  
23 understand that. Frankly, I'd like us as a  
24 Commission to -- to look at all the different  
25 legislation that got approved from both houses and

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           before the Governor decides to veto or approve, I  
3           have no problem discussing it openly on what we think  
4           about these things in an open fashion, as a  
5           Commission.

6                       And as a Commission, formally weighing  
7           in on some of this, because that actually is helpful,  
8           perhaps. Okay. Sorry. I'll get off my soapbox.  
9           And that's it. Thank you very much. I just have to,  
10          again, say I have been here for nine years, and I am  
11          really wanting to make a difference and I believe  
12          strongly that everyone has been incredible, and you  
13          would not be here if you didn't care.

14                      And it shows in every day, just how  
15          much staff is dedicated. And we have a lot less  
16          staff and a lot less resources and we have a lot more  
17          work. And so I am blessed to have the staff and I'm  
18          blessed to have my colleagues as a part of this, so  
19          thank you so much.

20                      CHAIR CHRISTIAN: Thank you,  
21          Commissioner. Commissioner Alesi?

22                      COMMISSIONER ALESI: So I'll be  
23          supporting the entire consent agenda. Thank you.

24                      CHAIR CHRISTIAN: Thank you.  
25          Commissioner Edwards.

1 6-16-2022 - Monthly Meeting - Albany, New York

2 COMMISSIONER EDWARDS: No questions.

3 No comments. Thank you.

4 CHAIR CHRISTIAN: Thank you.

5 Commissioner Howard.

6 COMMISSIONER HOWARD: Yeah. I -- I  
7 just have one item questions, Item 370. This, first  
8 of all, I -- I'm going to support this item. It's  
9 one of these things, we're in the State of New York  
10 where we didn't make the plan first, we jumped off  
11 the cliff and then said, maybe you should start  
12 flapping your arms and maybe you'll fly, or maybe you  
13 won't, but maybe you should have thought about that  
14 before you jumped off the cliff.

15 And this is one of the items that  
16 helps us make the plan on the way down, I hope. We  
17 need to get the plan done before we hit the ground.  
18 The one question I have in this order, this does --  
19 by supporting this order, we are -- I am not  
20 supporting any individual project, correct?

21 MR. ROSENTHAL: Yes. That is correct,  
22 Commissioner.

23 COMMISSIONER HOWARD: Great. Thank  
24 you. Along with that is this issue of -- getting  
25 back to this issue of planning, this item and this

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           proceeding is showing that our belief or the State's  
3           belief in terms of policy, that the mysterious hand  
4           of the market will drive our -- the economy and the  
5           developers in such a way that we will be able to meet  
6           our C.L.C.P.A. goals by -- by merely market forces  
7           and -- and the like.

8                       This actually shows that no, no, no,  
9           just because you can build it doesn't mean we should  
10          come. And this prioritizing, what is the most cost-  
11          effective locations, not only just for the developer  
12          who builds the generation asset, but for the  
13          utilities that will connect that generation asset to  
14          the broader grid.

15                     And I think it's also very important,  
16          and one of the things I am still disturbed about is  
17          the issue that people need to know, every time we put  
18          up a new power line in support of the C.L.C.P.A.,  
19          everybody pays, everybody pays. I have problems with  
20          that, but that's not what's being addressed in this  
21          particular order. But I do do applaud staff for  
22          trying to corral something that should have been done  
23          at the front end of this and not at the back end.

24                     And if we don't get this right, we  
25          will spend too much money in the wrong places. And

1           6-16-2022 - Monthly Meeting - Albany, New York  
2           as I've said, repeatedly, all of that money today,  
3           all of that money necessary to make these large  
4           capital expenses currently comes out of ratepayers  
5           pockets. It's the only mechanism.

6                       And to the extent that we are working  
7           hard to get the best bang for those dollars, I -- I  
8           applaud it. But again, this, this proceeding I think  
9           is one of the most important ones that are going --  
10          that is ongoing right now. And I look forward to the  
11          result. Thank you.

12                      CHAIR CHRISTIAN: Thank you,  
13          Commissioner. Commissioner Valesky.

14                      COMMISSIONER VALESKY: No questions or  
15          comments.

16                      CHAIR CHRISTIAN: Thank you.  
17          Commissioner Maggiore.

18                      COMMISSIONER MAGGIORE: I have no  
19          question or comments. I am going to abstain from one  
20          item which is 371, item 371. But other than that, I  
21          -- I will vote yes on the record, the consent agenda.

22                      CHAIR CHRISTIAN: Okay. Thank you.  
23          Okay. I'll bring the consent agenda to a vote. My  
24          vote is in favor of the recommendations in the  
25          consent agenda. Commissioner Burman. How do you

1 6-16-2022 - Monthly Meeting - Albany, New York

2 vote?

3 COMMISSIONER BURMAN: I vote yes,  
4 except for where I voted no. 161, 370, 375.

5 CHAIR CHRISTIAN: Thank you.  
6 Commissioner Alesi.

7 COMMISSIONER ALESI: I vote yes on all  
8 items. Thank you.

9 CHAIR CHRISTIAN: Commissioner  
10 Edwards.

11 COMMISSIONER EDWARDS: I vote yes.

12 CHAIR CHRISTIAN: Commissioner Howard.

13 COMMISSIONER HOWARD: I support the  
14 consent agenda in its entirety.

15 CHAIR CHRISTIAN: Thank you.  
16 Commissioner Valesky.

17 COMMISSIONER VALESKY: I vote yes.

18 CHAIR CHRISTIAN: Commissioner  
19 Maggiore.

20 COMMISSIONER MAGGIORE: I vote yes on  
21 all items except for 371. On that item, I will  
22 abstain.

23 CHAIR CHRISTIAN: Great. Thank you  
24 everyone. Madam Secretary, is there anything else  
25 before us today?

1           6-16-2022 - Monthly Meeting - Albany, New York

2                       SECRETARY PHILLIPS: There is nothing  
3 else before you today.

4                       CHAIR CHRISTIAN: Thank you. And with  
5 that, we adjourned. Thank you everyone.

6                       (Off the record)

7                       (The meeting concluded.)

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1 6-16-2022 - Monthly Meeting - Albany, New York

2 STATE OF NEW YORK

3 I, HANNAH ALLEN, do hereby certify that the foregoing was  
4 reported by me, in the cause, at the time and place, as  
5 stated in the caption hereto, at Page 1 hereof; that the  
6 foregoing typewritten transcription consisting of pages 1  
7 through 232, is a true record of all proceedings had at  
8 the hearing.

9 IN WITNESS WHEREOF, I have hereunto  
10 subscribed my name, this the 21st day of June, 2022.

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12

13 HANNAH ALLEN, Reporter

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A	
<b>A.C.P</b> 107:15	<b>achieved</b> 6:5 87:16 168:5,13
<b>A.G</b> 58:9	<b>achievement</b> 84:23
<b>A.L.J</b> 3:14 9:10,18 11:21 14:2	<b>achieving</b> 83:15 107:20
14:10,19 16:8,18 19:2 21:20	<b>acknowledge</b> 76:18 209:7
28:9 29:5,12 34:14 35:22 37:3	<b>acknowledges</b> 46:15 49:16
<b>a.m</b> 1:7 2:2	<b>acquired</b> 62:10
<b>A.M.I</b> 173:12,15,18	<b>act</b> 6:12 20:21 35:19 101:7,22
<b>A.P.I</b> 162:4	101:22 102:14,18 109:10
<b>abandon</b> 164:19	116:14 135:12,13
<b>abated</b> 87:6	<b>action</b> 37:18 51:10 52:15,19
<b>abilities</b> 137:21	56:18,18 62:9 64:17 130:5,5
<b>ability</b> 69:24 78:14 106:15	132:3
151:14 155:6	<b>actions</b> 23:3 60:2 105:21 129:16
<b>able</b> 15:22 50:5 63:10 64:18	129:17 136:18
85:25 105:4 116:3,4 118:19	<b>active</b> 104:19
180:2 211:14 212:8,11 213:11	<b>activities</b> 39:17 51:7 81:10
215:8 229:5	83:2,12 85:7 142:4 150:11
<b>Absent</b> 81:15	161:5 194:20 206:7 213:16
<b>absolute</b> 96:6	224:18
<b>absolutely</b> 63:14,18 88:22 97:2	<b>activity</b> 39:19 50:9,11 154:4
118:5 126:18 134:7 137:21	<b>acts</b> 21:16
181:7 182:20 218:17	<b>actual</b> 57:21 89:21 186:9
<b>abstain</b> 230:19 231:22	<b>adapt</b> 102:5
<b>abundantly</b> 69:19	<b>add</b> 16:11 17:7 57:20 93:5 118:6
<b>accept</b> 28:13 90:5	120:23 143:3 183:15
<b>acceptable</b> 44:19 128:12	<b>added</b> 204:7
<b>accepted</b> 90:10	<b>adding</b> 32:5 152:4
<b>access</b> 68:25 69:3 102:3 114:16	<b>addition</b> 11:24 81:5 87:16 93:19
114:19,25 115:17 127:23,24	112:6 152:8,14 169:23 203:24
169:21 210:12	<b>additional</b> 42:23 45:15 51:15,18
<b>accessibility</b> 107:18 155:7	62:9,12 71:13 100:3 106:3,6
<b>accessible</b> 123:6 187:9	111:11 120:18 161:18 170:10
<b>accessing</b> 67:16	172:4 190:7 194:8 195:5
<b>accomplish</b> 46:3	201:22
<b>account</b> 47:13	<b>Additionally</b> 95:19 102:17 104:7
<b>accountability</b> 221:3	109:8 120:12 140:4
<b>accountable</b> 215:8,9	<b>address</b> 27:3 40:5 41:5 42:5,10
<b>accounted</b> 187:6	44:6,6 45:21 46:10 51:19
<b>accounting</b> 204:5	61:23 78:18 81:3 86:12 94:8
<b>accounts</b> 48:3,7	103:3,5,13,14,15,18,25 104:8
<b>accrue</b> 170:2	104:11,13,15 105:6 107:3,9
<b>accrued</b> 37:16 40:14 51:3 64:19	108:13,25 109:4,5,6 110:24,25
<b>accumulated</b> 43:15	111:9,10,11,12,17 112:6,9,24
<b>accuracy</b> 103:9 107:20 110:3	112:24 113:11,13 127:18,19
<b>accurate</b> 120:21	128:5,16,21 130:11 132:4
<b>accurately</b> 179:11 182:4	134:3,6,9 137:10 160:20
<b>achievable</b> 84:13	167:12 203:18 212:11 213:24
<b>achieve</b> 9:15 75:21 110:3 202:16	221:3
	<b>addressed</b> 40:19 41:3 49:3 65:3
	166:18 179:2 229:20

**addresses** 44:12 110:20 128:24  
 142:23 204:11  
**addressing** 26:11 50:25 52:8  
 64:3 115:3 221:5  
**adds** 56:20  
**adequacy** 211:6  
**adequate** 96:2 139:18 174:7,9,12  
**Adirondack** 138:5  
**adjourned** 232:5  
**adjudicate** 183:6  
**adjust** 4:10  
**adjusted** 147:5 166:24,25  
**adjustment** 5:25 6:10 7:15  
 170:15 171:19 178:12 203:14  
 204:4,23  
**adjustments** 5:21 152:9 170:2  
 203:6 225:15  
**administer** 37:17 51:9 57:18  
**administered** 46:6 48:18 51:17  
 59:20  
**administering** 121:2  
**Administration** 41:14  
**Administrative** 3:12  
**administrators** 182:19  
**Admittedly** 138:18  
**adopt** 36:2 37:13 44:8 64:4  
 155:23  
**adopted** 7:4 36:25 40:22 79:24  
 101:2 148:21 185:7  
**adopting** 40:23 41:24  
**adoption** 42:11 45:20 66:10  
 102:17 185:10  
**adopts** 4:12  
**advance** 16:20  
**advancement** 81:9 93:19  
**advantage** 57:15  
**adversely** 64:21  
**advocacy** 67:5 69:4 73:24 74:6,8  
**advocating** 139:23  
**affect** 64:22 139:14  
**affiliated** 91:5  
**afford** 38:19 123:7  
**affordability** 40:23 41:15 43:10  
 43:11,19 73:9,17 107:4 127:24  
 144:15  
**affordable** 45:24 107:11 111:25  
 210:11  
**afforded** 85:2  
**afield** 137:23  
**afraid** 214:9

**afternoon** 80:7,17 101:11,12  
 149:6,11 166:4 184:23 201:19  
**agencies** 90:22 91:25 96:8 141:4  
 141:4 214:3  
**agency** 41:17 78:6 91:11 96:7  
 119:21 141:8 143:22 144:3  
**agenda** 2:6,8 26:21 219:6,8  
 224:13,23 227:23 230:21,23,25  
 231:14  
**ages** 200:19  
**aggressive** 217:24  
**agile** 81:6  
**ago** 97:17 140:18 144:10 145:12  
 220:10  
**agree** 8:22 10:5 11:4 14:2,23  
 44:19 63:15,18 64:12 65:5  
 77:2 92:16 126:3  
**agreed** 4:15,16 7:2 21:8,13,19  
 47:10 55:15  
**agreement** 8:2 14:7 17:8 18:18  
 21:21 58:7 62:22,22 66:2,4  
**agreements** 7:9 8:11 34:8 45:25  
 170:12  
**ahead** 24:4 107:19 108:6 118:4  
 212:8,13  
**aid** 83:16 122:25  
**aimed** 204:8  
**al** 169:13  
**alarmist** 209:25  
**Albany** 1:1,9 2:1 3:1 4:1 5:1  
 6:1 7:1 8:1 9:1 10:1 11:1  
 12:1 13:1 14:1 15:1 16:1 17:1  
 18:1 19:1 20:1 21:1 22:1 23:1  
 24:1 25:1 26:1 27:1 28:1 29:1  
 30:1 31:1 32:1 33:1 34:1 35:1  
 36:1 37:1 38:1 39:1 40:1 41:1  
 42:1 43:1 44:1 45:1 46:1 47:1  
 48:1 49:1 50:1 51:1 52:1 53:1  
 54:1 55:1 56:1 57:1 58:1 59:1  
 60:1 61:1 62:1 63:1 64:1 65:1  
 66:1 67:1 68:1 69:1 70:1 71:1  
 72:1 73:1 74:1 75:1 76:1 77:1  
 78:1 79:1 80:1 81:1 82:1 83:1  
 84:1 85:1 86:1 87:1 88:1 89:1  
 90:1 91:1 92:1 93:1 94:1 95:1  
 96:1 97:1 98:1 99:1 100:1  
 101:1 102:1 103:1 104:1 105:1  
 106:1 107:1 108:1 109:1 110:1  
 111:1 112:1 113:1 114:1 115:1  
 116:1 117:1 118:1 119:1 120:1

121:1 122:1 123:1 124:1 125:1	<b>alternatives</b> 6:15 171:11 219:15
126:1 127:1 128:1 129:1 130:1	219:19,21 220:4,13,16,20
131:1 132:1 133:1 134:1 135:1	<b>Altice</b> 134:10
136:1 137:1 138:1 139:1 140:1	<b>amazing</b> 160:14
141:1 142:1 143:1 144:1 145:1	<b>Amendment</b> 16:10
146:1 147:1 148:1 149:1 150:1	<b>American</b> 25:15 41:17
151:1 152:1 153:1 154:1 155:1	<b>amount</b> 45:9,18 50:20 69:22
156:1 157:1 158:1 159:1 160:1	136:20 159:18 170:21 173:14
161:1 162:1 163:1 164:1 165:1	180:13 191:14 209:8 217:22
166:1 167:1 168:1 169:1 170:1	<b>amounts</b> 5:7 39:13 55:17
171:1 172:1 173:1 174:1 175:1	<b>amplify</b> 114:21
176:1 177:1 178:1 179:1 180:1	<b>analyses</b> 105:3
181:1 182:1 183:1 184:1 185:1	<b>analysis</b> 16:15 21:7 23:17,19,20
186:1 187:1,19 188:1 189:1	25:6 77:20 102:14 103:11
190:1 191:1 192:1 193:1 194:1	104:3,7 119:3 136:25 138:13
195:1 196:1 197:1 198:1 199:1	138:24 141:2,15 142:16 180:22
200:1 201:1 202:1 203:1 204:1	181:6,11 196:10 201:25 220:2
205:1 206:1 207:1 208:1 209:1	<b>Analyst</b> 101:18
210:1 211:1 212:1 213:1 214:1	<b>analyze</b> 105:23 161:17,23
215:1 216:1 217:1 218:1 219:1	<b>and-a-half</b> 206:19,23
220:1 221:1 222:1 223:1 224:1	<b>and/or</b> 38:20 39:6,10 170:5,11
225:1 226:1 227:1 228:1 229:1	185:17 222:12,19
230:1 231:1 232:1 233:1	<b>anniversary</b> 192:5
<b>Alesi</b> 1:15 2:15,16 28:11,12,24	<b>announce</b> 3:9
36:6,8 59:16,17 60:7 79:9,10	<b>announced</b> 210:4
90:15,16 92:3 93:4 100:11,12	<b>annual</b> 20:14 101:23 113:16
126:15,16 145:9 147:25 148:2	134:23 153:3 154:4 166:15
162:11,12 176:20,21 196:21,22	169:24 185:9,23 189:16
215:15,16 227:21,22 231:6,7	<b>annually</b> 5:12,13,14 106:5 120:9
<b>Alesi's</b> 99:5	147:2 152:22 154:16 191:19
<b>Alicia</b> 37:9 52:4 59:2 66:25	<b>answer</b> 20:7 30:7 74:15 85:13
72:11 75:4 141:7	117:12 121:24 131:23 156:6
<b>align</b> 166:11	166:21 167:9 171:15 175:15
<b>aligned</b> 19:7 25:9,18 54:23	190:13 196:2 197:15 207:13
85:22 117:2,4	<b>answered</b> 166:22
<b>alignment</b> 19:12	<b>answering</b> 113:20
<b>alike</b> 107:22	<b>antennas</b> 138:8
<b>all-</b> 102:5	<b>anticipate</b> 179:22 180:4
<b>ALLEN</b> 233:3,13	<b>anticipated</b> 121:5
<b>Alliance</b> 41:18 160:12	<b>anticipation</b> 223:11
<b>allocated</b> 72:22,22	<b>ants</b> 213:18,19
<b>allocation</b> 43:9	<b>anxious</b> 33:18
<b>allow</b> 46:24 55:5,13 83:19 85:6	<b>anybody</b> 53:17 90:24 137:6,15
88:9,12,15 135:19 136:3	<b>anymore</b> 181:21
<b>allowed</b> 11:25	<b>anytime</b> 31:3
<b>allowing</b> 159:20	<b>anyway</b> 31:20 75:3 218:14
<b>allows</b> 110:19 111:3 166:16	<b>apologize</b> 90:18 110:18
<b>alluded</b> 112:12	<b>appeal</b> 7:22
<b>alternative</b> 54:19 70:3 219:12	<b>appear</b> 31:2 125:25 161:9 170:25
219:22 220:7	204:13

**appears** 28:17  
**appendices** 16:11  
**Appendix** 72:12  
**applaud** 28:22 67:9 127:8 225:9  
 229:21 230:8  
**apples** 25:5,5 119:4,5  
**appliance** 200:5  
**appliances** 159:5  
**applicability** 175:12  
**applicable** 20:11 21:3,17  
**applicant** 222:14  
**applicants** 95:10  
**application** 42:20 45:7 46:5  
 47:15,18,21 48:10,15  
**applications** 42:25 47:12  
**applied** 42:24 47:19 48:7  
**applies** 46:12  
**apply** 77:13  
**applying** 105:2 204:14  
**appointments** 166:24  
**appreciate** 17:19 28:8 32:20  
 34:4 64:5 77:18 85:16 88:18  
 88:19 92:24 121:6 126:7,7  
 128:7 156:9 160:2 195:18  
**appreciated** 53:7 191:11  
**appreciative** 89:24  
**apprenticeship** 95:12  
**approach** 50:15 57:14 58:18,20  
 59:24 77:18 78:25 106:14  
 220:7  
**approaches** 82:16  
**appropriate** 10:13 13:18 17:23  
 68:15 88:7 105:3 135:13 152:3  
 161:24 171:8 174:19 176:4  
**appropriated** 37:22 43:17 45:9  
 51:14  
**appropriately** 86:25 183:20  
**appropriation** 37:24 43:2,13,24  
 44:18 45:6,8 46:9 48:16 57:16  
 57:22 58:13 62:7 67:11 72:23  
**appropriations** 67:24 77:6  
**approval** 3:16 8:10 38:5 40:7,12  
 86:23 87:8 220:6  
**approve** 77:12 79:23 87:12  
 100:25 192:22 222:6,22 224:14  
 227:2  
**approved** 8:17 36:24 125:12  
 148:20 226:25  
**approving** 8:25 34:3 125:16  
 220:24

**approximate** 83:15  
**approximately** 5:12 29:24 45:5  
 48:14 64:16 104:8,10 142:22  
 186:14 188:22 189:2,3,5,15,18  
 203:15,15 204:6 206:23  
**April** 20:22 61:13  
**area** 92:25 97:6 110:21 131:10  
 143:7 154:8 156:19 157:3,4,5  
 157:6,7,13 158:25 175:13  
 190:3 197:21 205:5  
**areas** 102:11 105:16,18 106:17  
 111:6 113:3,3 119:9 130:18,22  
 130:24 131:14,21 132:12  
 133:12 138:4,10 142:4 143:2  
 146:6 149:22 152:5 161:14,19  
 161:20 163:6 167:20 174:9  
 190:8 195:6 203:20 204:17  
**Argo** 6:23  
**Aric** 37:8,10 52:2 58:25 60:9  
 66:25 75:4,6 141:6 177:13  
 180:16 183:10 184:2  
**arms** 228:12  
**arrearages** 61:23 167:7 170:5  
**arrears** 37:7,14,15 38:9 39:3,6  
 39:7,9,10,12,14 40:5,20 41:6  
 42:5,6,10,17 43:3,8,14,22  
 44:5,6,7,9,12,21,25 45:2,10  
 45:12,16,18,22 46:11 47:18,23  
 48:4,9,10,11,13 49:2,7 50:2,4  
 50:13,23 51:3,9,20 52:6 55:16  
 55:18 57:23 59:19 60:15,21  
 61:9,11,12,13 62:24 63:20  
 64:13,17,17 66:11 67:23 72:13  
 76:5 77:13 78:19 174:21  
**article** 7:21,25 8:4,12,18,24  
 10:3,4,10 11:15,21 12:23,24  
 13:9,13 14:4 23:10 33:20  
 113:25  
**articulate** 15:7 64:8  
**articulated** 207:25  
**asked** 74:12 87:25 90:18 92:4  
 118:11 146:15,15 175:3 176:11  
 196:13  
**asking** 24:20 221:19 226:9  
**aspect** 55:25 98:6 174:10  
**aspects** 96:25 138:8  
**assembled** 41:8  
**Assembly** 147:19  
**assess** 82:16 84:6 106:2  
**assessed** 8:6 55:7

**assessing** 120:16 175:25  
**assessment** 21:5 109:12 146:14  
 168:24 175:4 196:12 225:14  
**assessments** 145:21  
**asset** 229:12,13  
**assets** 188:22 189:15 199:15  
**assist** 50:7 59:22 84:7,9,16  
 86:17 102:22 170:9  
**assistance** 38:2,6,11 42:13,16  
 46:23 47:24 60:3 67:16,18  
 107:3,10 129:19  
**assisted** 221:25 222:24  
**associated** 38:25 41:17 67:12  
 102:22 103:6 109:21  
**Association** 41:15,17  
**assume** 71:20 172:5  
**assumed** 6:9  
**assuming** 132:11  
**assumption** 71:5  
**assure** 120:3  
**asterisks** 122:10  
**atmosphere** 153:13  
**attachment** 61:9,12 121:18  
 123:12 125:2 193:12 200:2  
**attachments** 121:9 193:24 199:23  
**attempted** 89:17  
**attend** 53:18  
**attention** 16:19 98:23 114:9  
**attesting** 125:17  
**attitude** 69:5  
**attitudes** 98:10  
**attract** 96:18,20  
**attributed** 155:3 168:25 183:20  
 186:25  
**attributes** 211:19  
**attribution** 183:18  
**atypical** 17:22  
**audit** 86:22 88:24 89:11 154:4  
 154:11 155:4 167:14 168:4  
**auditing** 170:25  
**audits** 87:7,11 150:2 154:5,12  
 154:16  
**August** 40:21,25 41:4 44:3 58:4  
 62:7 77:8 209:21  
**Australia** 27:6,10 210:3 212:14  
**authority** 41:11,12 74:12,14  
 84:3,3 136:14 139:24 140:3,24  
 140:25  
**authorize** 140:7  
**automatically** 47:6

**availability** 101:24 102:15,18  
 103:4 107:4 112:20 129:22  
 144:15  
**available** 9:4 37:9 43:25 46:6  
 47:8 51:25 71:13 80:12 85:13  
 102:12 104:2 106:12 107:16  
 108:10 111:17 112:19 130:23  
**average** 5:9 29:9,13 104:4 129:6  
 132:20 205:19,22,22,25 206:20  
 206:24 209:21  
**avoiding** 170:9  
**avoids** 51:6  
**awarded** 142:21  
**aware** 62:11 111:24 118:10  
 119:18,19,25 120:4 131:17  
**awareness** 107:15 129:22 153:7  
**awful** 28:20 126:19

---

**B**


---

**b** 1:16,18 60:18  
**back** 6:4 12:18 13:2,16 15:2  
 18:3,23 60:11,24 74:16 77:7  
 80:7 86:22 87:8 113:8 114:7  
 128:10 140:4 148:24 161:5  
 164:18 175:17,20 176:7 180:5  
 181:19 182:24 186:17 189:5  
 191:4 193:23 195:14 199:3,6  
 208:9 212:11 213:21 219:14  
 220:8,9 222:10 223:7,16  
 226:11 228:25 229:23  
**background** 38:11 185:4  
**backlog** 42:24 153:18,19  
**backlogs** 153:4 163:19  
**backseat** 165:9  
**backsliding** 163:21  
**backstop** 27:18 212:23  
**badly** 198:21  
**bag** 31:18,19  
**balance** 9:14 31:10 46:11 64:19  
 68:3 72:3 202:16 217:6  
**ballpark** 71:22  
**bang** 230:7  
**bar** 95:17  
**bargain** 98:16  
**bargaining** 7:9 34:8 95:6,15,18  
 98:6  
**barricaded** 197:22  
**base** 68:3 87:18  
**based** 43:20 56:18 76:2 103:11  
 132:20 133:16 136:21 144:18

146:19 154:5 156:17,18 157:9 157:12,17 166:20,24 172:11 173:2,10,11 178:13 188:10 202:2 212:20	<b>bigotry</b> 90:3
<b>baseline</b> 6:18 21:22	<b>bill</b> 5:10,16 29:14,16 30:16 31:5 37:19 40:8,9,15 43:12 44:20 46:17 47:2,4 49:14,20 51:6,12 52:13,14 56:16,19 57:2 66:6 75:14,20,23 170:11 172:19 173:3,4 180:11,12,15 182:12,16
<b>bash</b> 136:17	<b>billion</b> 171:21 172:9
<b>basic</b> 174:8	<b>billions</b> 39:4,8,12 52:6
<b>basically</b> 14:22 89:2,16 156:17	<b>bills</b> 37:15 38:19 39:2,7,10 47:22,24 50:4 166:24,25 167:3 167:4 169:5,16 172:15,18 173:5,6,8,11,14 177:7,9,18,21 179:12,20 183:4,5
<b>basis</b> 41:23 88:10 91:5 93:18 101:24 103:5 134:23 178:19 185:9,23 189:16 206:10	<b>bit</b> 15:2 16:6 21:10 23:16 29:2 56:9 76:15 163:20 183:23 196:5 216:9
<b>becoming</b> 98:11	<b>blanket</b> 153:13
<b>beg</b> 136:12 212:22	<b>bleed</b> 121:10
<b>began</b> 189:12	<b>blend</b> 59:19 165:4
<b>beginning</b> 92:18 149:18 153:10 208:23 219:8	<b>blessed</b> 227:17,18
<b>begun</b> 39:16 92:18 99:7 115:25	<b>blessing</b> 125:16
<b>behalf</b> 43:18	<b>blue</b> 110:9,9,10,23 138:4 186:17 188:5 190:4 207:10
<b>belief</b> 229:2,3	<b>board</b> 32:6 99:15 140:10
<b>believe</b> 32:10 33:15 35:7 58:4 62:15 69:4,20 73:8 86:23 87:7 87:14 90:4,6 94:21 95:13 96:9 105:8 125:11 136:24 139:7 159:11 161:5 194:12 227:11	<b>Boardroom</b> 1:8
<b>beneficial</b> 203:20 204:17	<b>boards</b> 140:4
<b>benefit</b> 7:15 33:2 42:18 49:18 84:18 85:25 127:7 129:13 133:2 136:24 139:15 170:7 196:10 210:18	<b>Bob</b> 30:2 69:9
<b>benefiting</b> 140:20	<b>book</b> 136:20
<b>benefits</b> 7:18 47:9 71:15 80:22 85:23 137:22	<b>books</b> 7:7,12
<b>best</b> 26:8 35:8,15,18 47:10 67:15 83:20 84:17,24 89:3 99:13,13 107:7 129:17 132:5 137:21 138:25 142:11,16 143:7 175:10 179:19 181:13 202:24 207:3 216:13 230:7	<b>boomers</b> 94:24
<b>better</b> 19:19 35:13 90:5,7 115:2 127:19 129:3 135:9 141:5 155:23 163:9 181:25 218:8 223:9	<b>bought</b> 182:23 198:22
<b>beyond</b> 144:5 146:21	<b>box</b> 13:19 108:13 113:12
<b>bi-weekly</b> 41:23	<b>bread</b> 19:25 194:18
<b>biases</b> 81:12	<b>break</b> 79:25 148:24
<b>bid</b> 89:13,13	<b>breaks</b> 3:8
<b>bids</b> 89:14	<b>Brian</b> 101:9,17
<b>big</b> 58:6 105:14 133:20 163:13 164:10 165:7 199:11	<b>brief</b> 88:4 89:6 109:15 201:20
<b>biggest</b> 57:24 183:3	<b>briefing</b> 21:22 29:6 89:10 90:18 126:25
	<b>briefly</b> 99:3 143:15
	<b>briefs</b> 4:20,24
	<b>brilliant</b> 126:18
	<b>bring</b> 79:4 88:3 95:12 99:11 123:8 124:4 147:21 212:11,17 214:15 230:23
	<b>bringing</b> 9:16 53:3 87:14 98:23 123:13
	<b>brings</b> 34:22

**brink** 24:22 212:9  
**broad** 20:10  
**broadband** 101:6,7,22,25 102:3,8  
 102:12,15,17 103:4,6,8,19,21  
 104:5,12 105:2,15,22 106:9,11  
 106:16,25 107:4,10 108:9,22  
 109:11,12,13 110:6 111:5  
 112:20 114:2 115:17 118:23  
 121:3,10,21 123:5 126:11  
 128:13,18 130:22 144:14  
 145:17 193:7,23 205:4,6  
 217:11,11  
**broadcast** 129:19  
**broader** 44:8 64:4 74:5 229:14  
**broken** 113:2 150:12  
**brought** 12:24 16:18 31:16 51:2  
 100:8 114:8 135:11 169:14  
**brushed** 28:2  
**buckets** 72:21  
**budget** 42:12,23,25 44:17 46:9  
 73:4,8,25 76:24 78:4  
**budgets** 70:2  
**Buffalo** 187:17 221:10  
**build** 49:21 78:15 121:15 199:13  
 229:9  
**building** 1:8 23:5 138:8 153:12  
 220:23  
**buildout** 123:17  
**builds** 229:12  
**built** 109:24 112:13 120:13  
**bulky** 137:25  
**bulletproof** 216:25  
**bunch** 94:20  
**bundle** 12:5 216:12  
**bungee** 212:10  
**buried** 150:10  
**Burman** 1:13 2:12,13 9:20,21  
 12:12 14:9,13,25 17:18 19:3  
 21:25 22:24 23:22 28:11 31:16  
 33:7,23 34:24 36:4,5 53:5,6  
 53:19 55:21 58:19 59:16 62:2  
 79:6,8 86:10,11 89:23 100:8  
 100:10 115:9,10,21 116:22  
 117:13 118:25 120:5 121:5,19  
 121:22,25 122:9,18,22 123:10  
 124:6,24 125:3,15,23 147:23  
 147:24 158:21,22 163:4 164:9  
 173:22,23 174:3,6 175:21  
 176:9 180:16,19 181:8 183:25  
 191:8,9 196:16,21 208:16,17

219:9,10 226:18 230:25 231:3  
**Burman's** 197:3 199:12  
**business** 38:5 40:10 63:24 93:6  
 155:8 170:18 210:14  
**businesses** 65:23 81:6  
**busy** 213:19,19 225:23,25  
**butter** 20:2 194:18  
**buy** 10:16 27:21

---

**C**


---

**C.C.A** 179:24,25 180:2,9,12  
 181:19,20 182:11,19 183:12  
**C.C.A.s** 181:3 182:15  
**C.L.C.P.A** 19:6,8,16,18,24 20:3  
 20:8,16,24,25 22:5,12 23:7,13  
 27:16 33:7,14,22 85:21,22  
 93:23 207:18 212:23 213:13  
 214:22 224:10 229:6,18  
**C.M.C** 41:16  
**cable** 140:6,7,9,12  
**Cablevision** 134:10  
**calculate** 202:4  
**calculated** 172:18  
**calculation** 6:9  
**calendar** 17:3,13 47:5 153:9  
**calibrated** 186:4  
**California** 27:9 212:15  
**call** 2:4,10,10,10 26:11 35:25  
 79:5,25 97:10 100:6 144:6  
 147:22 159:2 166:21 167:9  
**called** 57:22 78:24  
**calling** 182:2,5  
**calls** 150:17 166:22 167:17  
 177:8,17  
**campaign** 46:21  
**can-do** 68:23  
**candidate** 81:17 97:7  
**candidates** 81:14  
**capable** 107:8  
**capacity** 10:15 80:14 127:20  
**capital** 5:25 21:5 202:8 206:6  
 230:4  
**caption** 233:5  
**car** 159:4  
**card** 131:6  
**care** 67:23 142:13 223:7 227:13  
**cared** 66:12  
**career** 143:20  
**careful** 18:17 208:6  
**carefully** 54:14 175:8 210:25



213:3 223:10  
**caring** 93:25  
**carried** 19:15  
**carry** 186:2  
**carrying** 8:6 12:11  
**case** 3:11,19,23 4:3,3,15,25  
 5:12 6:22 7:10,23,23 8:5,12  
 8:18,18 9:2,23 10:4,8,11,18  
 11:11 12:2,3,9,18,19,25 13:3  
 13:11 14:12 16:2 17:6,22  
 20:12,25 21:4,20 23:21 24:12  
 25:2,4,8 28:14 29:3,6 30:6,15  
 30:22 33:5,13 35:7,7 36:12  
 37:6 38:3 80:8 101:5 149:7  
 165:23 166:18 176:2 178:18  
 181:11 184:19 200:3 201:15  
 203:5 204:9  
**case-by-case** 178:19  
**cases** 3:10,16,19 8:11 14:20  
 15:6 18:5 19:25 20:4,11 21:2  
 23:5 28:16 31:19,23 33:19  
 35:11 51:24 55:14 95:10 96:19  
 137:8 153:3 163:17 164:11,12  
 165:7 169:13 174:11,20 189:19  
 216:7 217:3  
**cash** 67:22 70:2 71:15  
**catch** 216:10  
**categories** 23:5 150:13  
**category** 67:20 161:15,19  
**Cattaraugus** 103:25 110:14,15  
 138:14  
**cause** 11:14 32:3 161:9 169:2  
 204:5 205:2,3 233:4  
**caused** 25:17 150:10 155:9  
 203:16 206:16 207:4  
**causes** 135:7 206:3  
**causing** 183:19  
**center** 124:7  
**central** 106:22 168:7,8,13,18  
 171:19 203:10,13,19,24 204:15  
**certain** 73:10 90:21 99:12 138:8  
 152:5 169:13  
**certainly** 29:6 31:10 32:19  
 33:11 34:10 74:2 76:18,25  
 77:3,22 85:22 93:10 95:20  
 98:12,25 99:16 134:25 137:15  
 137:16 139:7,19 144:13,16,18  
 144:21 199:12 200:23  
**certificate** 23:14  
**certificates** 23:10 33:20

**certification** 151:15 222:5  
 223:13  
**certified** 222:9  
**certifies** 222:7  
**certify** 233:3  
**cetera** 181:3  
**chain** 160:6  
**Chair** 1:12 2:3,9,14,17,21,24  
 3:3,6,14 9:5,11,19 28:10,23  
 29:20 32:15,18 34:16,19 35:24  
 36:6,9,14,17,20,23 37:4,11  
 52:2,18,25 59:15 60:6 66:21  
 74:23 75:2 77:23 78:2 79:3,9  
 79:11,14,16,19,22 80:6,16  
 85:15 90:14 93:12 94:17 98:19  
 99:20,23 100:5,11,13,16,18,21  
 100:24 113:21 125:20 126:14  
 127:11,12 135:14 143:9 144:24  
 145:3 147:14,25 148:3,7,10,13  
 148:16,19 149:5,11 156:3,7  
 157:2,11,18,23 158:2,18,21  
 162:10,14 164:5 165:10,14,19  
 165:21 166:4 171:17,24 172:3  
 172:7,11,14 173:9,21 176:19  
 176:23 177:3 183:14 184:6,11  
 184:16,23 190:15,22,24 191:6  
 196:20,24 197:4 201:3,7,12,19  
 207:15 208:15 215:13,19,23  
 218:18,22 219:3 227:20,24  
 228:4 230:12,16,22 231:5,9,12  
 231:15,18,23 232:4  
**Chair's** 75:7  
**Chairman** 28:13 59:18 90:17  
 101:13 126:17 139:22 143:13  
 144:11 162:13 164:25 176:22  
 215:17 217:8  
**challenge** 97:3,5 98:15 106:9  
 116:25 118:11,13,15,19 161:20  
 218:13  
**challenged** 192:21  
**challenges** 11:14 103:5 109:21  
 119:9 121:7,8 128:3 210:24  
**challenging** 102:8 116:20  
**chance** 153:11 214:17  
**change** 16:21 17:7 18:20 55:8,10  
 71:21 73:4 97:19 98:10 114:16  
 135:23 182:13,22 222:12,18  
 223:14,14,14  
**changed** 16:24 69:5 142:5 182:22  
 223:5,6

<b>changes</b> 2:6,8 56:21 62:5 155:8 200:9 202:14 213:22 222:8,11	<b>claimed</b> 171:20
<b>changing</b> 138:2	<b>claims</b> 169:20
<b>channels</b> 49:19	<b>clarification</b> 74:11 125:24 221:19,22 222:7
<b>charge</b> 22:8 143:22	<b>clarifications</b> 128:7
<b>charged</b> 43:7 54:20 64:2 66:10	<b>clarify</b> 14:15 60:13,21,22 92:14 125:21
<b>charges</b> 8:6 12:11 54:20 107:2 123:2,8 180:3	<b>clarifying</b> 9:6 17:20
<b>charging</b> 68:3	<b>class</b> 65:22 157:9,13,13
<b>chart</b> 133:5,16 207:24	<b>classification</b> 156:18 157:9
<b>Charter</b> 134:11	<b>classifications</b> 157:16
<b>charts</b> 112:5,7	<b>classified</b> 157:14
<b>check</b> 104:22	<b>classify</b> 117:15
<b>chief</b> 82:21 101:14	<b>clean</b> 94:4 210:17,22
<b>choice</b> 32:10 130:19	<b>clear</b> 13:9 18:18 26:14 28:20 30:15 69:19 102:3 122:12 161:6 171:25 188:9 196:17
<b>choices</b> 142:9	<b>clearance</b> 203:17
<b>choose</b> 112:20	<b>clearly</b> 15:7 54:6 56:2 59:12 119:7 161:23 208:25
<b>Christian</b> 1:12 2:3,9,14,17,21 2:24 3:3,6,15 9:5,11,19 28:10 28:23 29:20 32:15 34:16 35:24 36:6,9,14,17,20,23 37:4 52:2 52:18,25 59:15 60:6 66:21 74:23 77:23 79:3,9,11,14,16 79:19,22 80:6 85:15 90:14 93:12 94:17 98:19 99:20 100:5 100:11,13,16,18,21,24 101:13 113:21 125:20 126:14 127:12 135:14 143:9 144:24 147:14,25 148:3,7,10,13,16,19 149:5 156:7 157:2,11,18,23 158:2,18 158:21 162:10,14 164:5 165:10 165:14,19,21 171:17,24 172:3 172:7,11,14 173:9 176:19,23 177:3 183:14 184:6,11,16 190:15,22,24 191:6 196:20,24 197:4 201:3,7,12 207:15 208:15 215:13,19,23 218:18,22 219:3 227:20,24 228:4 230:12 230:16,22 231:5,9,12,15,18,23 232:4	<b>click</b> 110:12 111:10 112:23 113:6
<b>circle</b> 110:23,25	<b>clicking</b> 109:8 111:13,20 112:13
<b>circuits</b> 203:21,25 204:9	<b>client</b> 224:25
<b>circumstance</b> 178:21	<b>cliff</b> 212:9 214:24 228:11,14
<b>circumstances</b> 67:19	<b>climate</b> 6:11 224:20 225:9,16
<b>cite</b> 18:5	<b>close</b> 45:21 116:19 118:7 123:22 212:10
<b>cited</b> 168:19 183:24	<b>closely</b> 50:6 96:22 115:22 118:8 119:24,25 120:4,25 144:22
<b>cities</b> 112:8,20,25	<b>closer</b> 10:23 213:10
<b>Citizens</b> 41:19	<b>closest</b> 157:20
<b>city</b> 41:14,14 46:22 73:3,7,18 108:14 113:6 187:17 221:6	<b>clunky</b> 67:9
	<b>cluster</b> 110:24,25
	<b>clusters</b> 110:20,23
	<b>code</b> 73:19 108:14 156:16,25 157:8 185:11
	<b>cognizant</b> 24:24
	<b>cohesive</b> 27:4
	<b>coincides</b> 40:18 153:9
	<b>collaborate</b> 215:5
	<b>collaborating</b> 193:20
	<b>collaboration</b> 59:13 103:7
	<b>collaborative</b> 27:4 211:15 214:2
	<b>collaboratively</b> 160:15 225:4
	<b>colleagues</b> 32:20 77:11,15 101:16 107:23 227:18
	<b>collected</b> 49:10 104:18
	<b>collecting</b> 115:25
	<b>collection</b> 39:17,19 40:15 50:11

51:7 75:22 106:9  
**collections** 73:10 167:5 170:6  
**collective** 7:8 34:8  
**college** 97:8 222:24 223:25  
**colleges** 97:22,23  
**combined** 81:11  
**come** 13:2 18:3 20:2,3,19 52:7  
 53:4 54:8 60:11,24 67:22 78:8  
 86:22 87:8 89:21 95:25 99:17  
 113:3,18 116:21 122:15 148:24  
 160:4 163:3 180:10 199:3  
 208:7 210:7 211:9 217:15  
 218:14 220:8,11 222:10 223:7  
 223:16 229:10  
**comes** 21:15 72:21 118:14 208:11  
 225:5 230:4  
**comfortable** 11:5 16:4 58:22  
 59:11  
**coming** 5:2 14:10 27:12 32:20  
 116:15 121:3 122:14 141:19  
 145:18 162:22 164:11 165:7  
 191:19 213:21 225:16  
**commenced** 2:2  
**commend** 52:4 78:2,16  
**commended** 67:21  
**commending** 34:10  
**commensurate** 62:22  
**comment** 17:20 62:18 75:2 76:13  
 85:3 196:4 219:7 221:13  
**comments** 9:20 60:5,10 62:15  
 63:18 64:10,25 66:20 68:23  
 79:2 162:13 165:17 176:22  
 177:2 184:10 192:17 201:6  
 215:18 218:21,25 219:20,25  
 221:17,18 226:9 228:3 230:15  
 230:19  
**Commission** 1:3 2:5 4:21 5:2,11  
 7:5 8:14,16,25 10:9,17,22,23  
 11:7,11,23,25 12:4,16,21,23  
 13:14 14:6 18:22 20:8,17,20  
 20:21 21:15,18 22:3 23:4,9  
 31:9,22 37:13 38:3 40:7,22  
 41:3 43:4 46:13 49:23 58:12  
 58:17 64:15 70:8,13 80:14  
 85:4,13,19 86:22 87:8 88:2,4  
 88:12 89:19 101:23 124:4  
 125:12 132:9 134:8,21 150:7  
 152:8 164:22 169:12 170:24  
 185:7 187:16 189:9,11,11  
 191:19 216:8 217:2 220:10

225:3 226:24 227:5,6  
**Commission's** 7:22,25 8:10 43:11  
 190:12  
**Commission's** 195:9  
**Commissioner** 2:12,13,14,16,17  
 2:19,22,23,24 3:2,3,5 9:20,21  
 12:12 14:3,9,13,25 17:18 19:3  
 21:25 22:24 23:22 28:11,11,12  
 28:24,24,25 29:8,12,18,21,21  
 29:22 30:4,8,11 31:16 32:16  
 32:16,17 33:7,23 34:15,17,17  
 34:18,19,24 35:4,23,25 36:3,5  
 36:6,8,9,11,15,16,17,19,20,22  
 53:5,6,19 55:21 58:19 59:16  
 59:16,17 60:7,7,8,20 61:3,5  
 61:25 62:2,14 63:3,8,13 66:22  
 66:22,23 68:7,18,22 69:13,18  
 70:9,16,24 71:4,11,19 72:5,14  
 72:18 73:2 74:18,22,24,24,25  
 75:25 76:7,9,12 77:24,24,25  
 78:3 79:4,6,8,9,10,11,13,14  
 79:15,16,18,19,21 86:10,11  
 88:18 89:23 90:15,15,16 91:7  
 92:3,14 93:4,13,13,14 94:8,15  
 94:18,18,19 96:23 98:5,20,20  
 98:21 99:5,21,21,22 100:8,10  
 100:11,12,13,15,16,17,18,20  
 100:21,23 115:9,10,21 116:22  
 117:13 118:25 120:5 121:5,19  
 121:22,25 122:9,18,22 123:10  
 124:6,24 125:3,15,23 126:15  
 126:15,16 127:13,13,14 130:15  
 131:22 132:14,18 133:7,15,22  
 133:24 134:5,18 135:5,15,15  
 135:16 142:19 143:10,10,12  
 144:11,25,25 145:2,9,10  
 147:15,23,24,25 148:2,3,5,8  
 148:11,12,13,15,16,18 158:21  
 158:22 162:11,11,12,15,15,16  
 163:4,8,14 164:3,6,6,7,9  
 165:11,11,12,14,16 173:22,23  
 174:3,6 175:21 176:9,20,20,21  
 176:24,24,25 177:4,5,16 178:3  
 178:11 179:6,21 180:16,19  
 181:8,16 182:8 183:16,24,25  
 184:4,7,7,8,11,13 191:8,9  
 196:16,21,21,22,25 197:2,3,5  
 197:5,6,13,18,25 198:5,8,14  
 198:18 199:10,12 200:10,16,25  
 201:4,4,5,7,9 208:16,17

215:14,14,15,16,20,20,21,24	132:13 210:17
215:25 218:19,19,20,22,24	<b>complacent</b> 208:7
219:9,10 226:18 227:21,21,22	<b>complained</b> 177:9
227:25 228:2,5,6,22,23 230:13	<b>complaining</b> 178:5
230:13,14,17,18,25 231:3,6,7	<b>complaint</b> 166:20 167:8 178:10
231:9,11,12,13,16,17,18,20	178:24 179:2
<b>Commissioners</b> 1:11 3:15 20:7	<b>complaints</b> 178:2 180:4
23:2 37:12 80:17 85:20 89:7	<b>complete</b> 155:17 188:15 196:11
101:13 110:17 125:21 149:12	<b>completed</b> 62:7 65:13 188:11,21
156:3 166:4 184:24 201:19	199:7
219:4,7	<b>completely</b> 25:18 117:25 180:6
<b>Commissioners'</b> 88:19	<b>completes</b> 9:3 190:13
<b>Commissions</b> 136:18	<b>complexity</b> 56:20
<b>commitment</b> 62:16	<b>compliance</b> 150:2 153:25 154:3,6
<b>commitments</b> 7:18	185:2 188:23 223:17
<b>committed</b> 39:24 48:21 194:25	<b>compliances</b> 154:19 155:18
195:3	<b>complications</b> 85:8
<b>commodity</b> 5:15 29:14 30:20,22	<b>complied</b> 144:4 190:11
51:6 169:2 177:20 178:20	<b>complying</b> 162:25
<b>Common</b> 160:12	<b>Comprehensive</b> 101:21
<b>communicate</b> 47:16 179:11,13,19	<b>Comptroller</b> 58:9
181:14,20	<b>Comptroller's</b> 128:15
<b>communicating</b> 116:18,24 193:20	<b>Con</b> 97:12,15 187:2 188:5,8
<b>communication</b> 82:20 116:5	203:8 205:10,11,13,16,21,24
181:25 182:16	206:12,14,21
<b>communities</b> 107:18 155:22	<b>concentrated</b> 104:13
<b>community</b> 6:12 128:15	<b>concept</b> 59:22
<b>companies</b> 55:10 71:9 81:10	<b>concern</b> 10:2 15:20 63:22 65:8
137:9 146:5 149:21 161:2	86:25 129:15 152:23,25 161:10
164:2 168:7 169:15,18 171:2	183:3 199:19,20,22 200:13
<b>company</b> 3:17,24 4:5 5:8,25 6:13	221:24
7:12 8:22 12:6,25 13:22 16:14	<b>concerned</b> 63:14 117:10 126:12
16:19 32:25 33:8 35:6 40:21	131:24 179:18 209:4 214:8
55:14 71:10 81:13 168:17	221:7
169:8 177:8,12 178:25 179:4	<b>concerning</b> 23:13 32:9 86:13
182:14 190:5	186:6 224:22
<b>company's</b> 6:22 7:10,23 8:5 14:4	<b>concerns</b> 65:17 77:19 87:6 107:4
16:19 17:5 82:11	137:13 182:6 192:20 200:22
<b>companywide</b> 203:3	208:21 209:9
<b>compare</b> 105:4	<b>concluded</b> 73:3 143:21 232:7
<b>compared</b> 153:17 189:3	<b>concludes</b> 51:24 85:9 156:4
<b>comparison</b> 25:5 119:5	171:13 207:12
<b>compensated</b> 98:13 174:11	<b>conclusion</b> 50:23 84:21
<b>compensation</b> 95:25 96:10,17,25	<b>concur</b> 164:14
<b>competed</b> 97:14	<b>condensed</b> 145:6
<b>competencies</b> 141:7	<b>condition</b> 185:16 187:12
<b>competing</b> 117:7,15	<b>conditions</b> 57:24
<b>competition</b> 129:2,2 130:24	<b>conduct</b> 4:23 46:20,20 87:25
131:9,19 133:4,12,13 139:6,9	106:6 108:6
<b>competitive</b> 95:21 96:13 130:19	<b>conducted</b> 82:8 103:12 154:16

167:13	<b>construct</b> 105:19
<b>conducting</b> 46:15	<b>constructing</b> 6:15
<b>conducts</b> 154:4	<b>construction</b> 185:12
<b>ConEd</b> 72:6, 6 73:6, 13 76:6, 7	<b>consult</b> 6:14
175:24, 25 179:24 180:9 181:21	<b>consultant</b> 84:6, 9, 14 86:14, 17
182:12 219:11	86:21 87:5, 10, 13 88:5
<b>ConEd's</b> 72:10, 12 180:14	<b>consultants</b> 82:16 87:22 88:23
<b>ConEdison</b> 173:17 176:4	89:4
<b>conference</b> 167:16 213:15 224:5	<b>consulted</b> 16:19
<b>conferences</b> 226:14	<b>consumer</b> 105:24 107:14 108:13
<b>confirm</b> 2:11 105:4 145:12	108:19 111:21 112:14 113:15
<b>confirmation</b> 144:17 145:11, 15	113:17 122:25 123:7
<b>confirmed</b> 144:12	<b>consumers</b> 15:21 103:2 107:2, 21
<b>conflict</b> 24:8	110:4 111:3, 24 120:14 210:14
<b>confused</b> 117:3	210:19
<b>confusion</b> 119:6	<b>contact</b> 197:23
<b>Congdon</b> 73:24	<b>contacts</b> 203:12 206:5
<b>congratulate</b> 145:3	<b>contain</b> 166:19 169:25
<b>congratulations</b> 191:10	<b>contentious</b> 13:13
<b>Congress</b> 68:10 136:13 139:24	<b>contest</b> 4:16
<b>connect</b> 119:18 229:13	<b>context</b> 135:3 161:16
<b>ConnectALL</b> 120:25 130:20 131:18	<b>continue</b> 47:22 95:17 105:22
<b>connectivity</b> 101:7, 22 107:12	107:14 127:9 129:21 134:12
111:25 144:15	139:22 155:21, 24 158:8 161:25
<b>consecutive</b> 173:5 204:3	163:5 171:6, 9 176:3, 5 187:2
<b>consent</b> 4:12 26:21 219:6, 8	190:5 192:19, 21 196:14 204:4
224:13, 23 227:23 230:21, 23, 25	204:14
231:14	<b>continued</b> 7:9 42:10 44:24 64:6
<b>consequence</b> 57:10	82:13 85:5 103:6 151:25 152:4
<b>consequences</b> 57:8 62:6 166:13	152:25 176:15
172:8	<b>continues</b> 160:14 162:19 193:5
<b>Conservation</b> 91:3	<b>continuing</b> 99:18 144:22 160:18
<b>consider</b> 15:4 56:24 88:6, 22	188:24 189:14 192:25 219:18
106:10 107:9 122:20 183:17	<b>continuous</b> 86:8 159:25 160:16
211:19 215:6	215:7
<b>consideration</b> 81:15 87:23 93:17	<b>continuously</b> 208:10 225:15
98:24 225:3	<b>contract</b> 46:8
<b>considered</b> 6:15 50:22 96:24	<b>contractors</b> 107:25 150:16, 21
106:24 107:6 152:19 157:5	<b>contracts</b> 58:7, 8
172:21, 22 173:2 208:3	<b>contrast</b> 105:4
<b>considering</b> 34:3 121:18 123:4	<b>contribute</b> 90:11
129:19 130:16 224:24	<b>contributed</b> 48:24 85:11
<b>considers</b> 85:4	<b>contributing</b> 54:15 57:4
<b>consistent</b> 15:12 23:14 150:22	<b>contributions</b> 48:22 49:5 52:21
<b>consistently</b> 204:20 217:24	55:19
<b>consisting</b> 233:6	<b>control</b> 6:23 178:20 183:9
<b>constant</b> 5:15 29:14	193:16 202:17
<b>constitutes</b> 64:15	<b>conversation</b> 176:8, 14 183:22
<b>constitution</b> 138:10	220:25 222:22
<b>constraint</b> 58:6	<b>conversations</b> 95:3

<b>conversely</b> 127:20	113:12 115:22 137:20 138:15
<b>convert</b> 155:6	139:17
<b>cooperate</b> 215:5	<b>couple</b> 3:21 9:24 31:7,20 60:9
<b>coordinate</b> 215:4	63:17 64:9,24 124:22 137:14
<b>coordinated</b> 49:17 59:9	177:6 209:3 219:11
<b>copy</b> 63:11	<b>coupled</b> 170:24
<b>cords</b> 212:10	<b>course</b> 26:2 63:12 81:23 97:25
<b>core</b> 90:6 159:8 160:5 192:6	112:23 183:13
<b>corner</b> 102:4 108:18	<b>courses</b> 97:19
<b>Corning</b> 3:11,17 6:23 16:6 24:13	<b>Court</b> 12:15 13:2,9 14:3
24:14,14 25:4,14 29:24 30:24	<b>cover</b> 47:24
31:13	<b>coverage</b> 108:22 110:6 145:21
<b>corporate</b> 7:14 82:20 136:19	<b>covered</b> 37:24 51:16
<b>Corporation</b> 38:4 168:8,9,11,12	<b>covers</b> 3:16
<b>corporations</b> 43:4	<b>COVID</b> 39:14 54:21 69:10 78:19
<b>corral</b> 229:22	102:2 155:9 174:21
<b>correct</b> 4:10 16:10,13 52:17,22	<b>COVID-</b> 169:17
67:24 68:5,6,11,12 69:11 70:4	<b>COVID-19</b> 38:6,10,15,21 40:11
70:5,16 97:3 123:2 147:3	41:2 42:7 48:20 51:2 55:7
148:6,7 157:19 171:22 172:2	170:16
172:10 178:23 179:8 197:10,11	<b>create</b> 7:18
197:12,17 198:14,16 200:5	<b>created</b> 38:21 166:25
228:20,21	<b>creates</b> 214:15
<b>corrections</b> 16:21 112:15	<b>creativity</b> 96:15
<b>correctly</b> 65:25 147:2 157:3	<b>credit</b> 7:11 46:4 47:19 56:16
<b>correlates</b> 131:15	<b>credits</b> 40:8,14 48:4,8,11,18
<b>correlation</b> 161:6,23 173:11	<b>criteria</b> 171:3
<b>corroborate</b> 105:5	<b>critical</b> 50:5 54:9 81:24 86:24
<b>corrosive</b> 90:2	93:22 102:4 120:19 124:13
<b>cost</b> 24:6 30:22 31:2 32:7,19	160:5,9 174:9 209:8
48:13 56:25 62:5 75:22 87:17	<b>critically</b> 113:24
87:23 88:13 89:4 101:24	<b>cross-examination</b> 4:23
105:19 136:25 137:11,22 153:5	<b>crossed</b> 136:2
171:11 196:10 211:3,5 216:12	<b>culture</b> 162:6 194:17
220:17 221:4 225:19	<b>curious</b> 172:17,23 223:24
<b>cost-</b> 229:10	<b>current</b> 7:21 39:3 66:6 83:12
<b>Costello</b> 16:18	103:4 111:22 137:24 194:23
<b>costs</b> 19:14 22:9 25:24 31:5	221:19,20 223:23
35:8 88:21 123:14 217:20	<b>currently</b> 37:18 45:19 51:11
226:6	95:5 131:21 170:19 230:4
<b>Council</b> 27:23	<b>curtailing</b> 31:23
<b>Counsel</b> 140:22	<b>customer</b> 5:10,22 6:17 16:25
<b>count</b> 177:11,23 178:9,22 179:15	29:13 37:23 38:6,10 40:14
<b>counted</b> 178:18 179:4 180:23	44:7 47:4 48:3,7,10 49:14
<b>counties</b> 103:21,24 104:3 112:21	51:20 64:16 75:14 76:5 81:3
115:22 116:4 119:24 128:10,11	81:20 129:21 165:24 166:7,8
129:5,9,12 132:19,22,25 138:5	166:10,15,16,19,21 167:5,7,8
<b>counting</b> 74:8	167:14,24 168:2,14,19,22
<b>county</b> 102:25 108:14 110:6,8,9	169:3,24 170:4,10,18 171:3,4
110:12,14,15 112:9,18 113:5	171:7,11,14 172:17 177:7

178:5,7 179:3,7,11,14,14,20  
 180:15 181:14,21,22,23,25  
 182:5 183:19 190:20,21,22  
 191:3 207:8,11  
**customer's** 202:24 207:3  
**customers** 7:19 29:24 30:24 31:6  
 32:3,6 33:3 37:17,18,20 38:18  
 38:23,25 39:5,9,18,21,23 40:3  
 40:8,10 42:2,6,20 43:3,9,14  
 43:19 44:10,10,21,25 45:3,10  
 45:13,16,23 46:16,21,24 47:10  
 47:17 48:14,21 49:18 50:7,16  
 50:21,24 51:4,11,16 52:22  
 55:9 56:17 57:2,17,18 61:6,7  
 61:10,11,12,14,15,16,21,24  
 62:17,17,19,20,20,23 63:5,16  
 63:24,24 64:4,18 65:6,11,23  
 66:17 67:7,14 68:4,25 71:14  
 71:16 72:7,10 73:13 78:11  
 81:25 129:3 136:4,6 137:2,23  
 139:13 166:9,11,14 169:20  
 170:7,9,13 171:8 174:12  
 179:24,25 180:7 181:19 182:10  
 182:12,21 205:13,22,25 207:8  
 207:21 216:5,17 217:19  
**cut** 24:3,9,11 127:21  
**cutting** 25:3  
**cycle** 53:17 154:11 185:19,25  
 188:19 191:20

---

**D**


---

**D.E.C** 23:15 214:18  
**D.E.I** 80:21 81:8 82:2,11,12,16  
 82:18 83:11,12,19,23,25 84:6  
 84:7,11,20,23 85:3 86:18  
 88:11 90:8 94:9  
**D.O.T** 115:13,14  
**D.P.S** 20:19 23:3 27:18 53:21  
 58:5 86:7 108:10 146:11  
 189:12 225:18  
**daily** 102:6  
**dais** 135:18 136:12  
**damage** 149:23 150:9,11,20,21,23  
 151:6,10 159:15 206:15  
**damages** 150:10,13 151:4,8  
**danger** 204:11  
**dangerous** 90:3  
**darker** 110:10 207:10  
**data** 4:2 6:18,20 7:13 21:21  
 33:10 42:2 104:14,18,20,23

105:8 106:3,9 111:12 115:23  
 115:25 120:11 150:4 151:9  
 154:9 155:13 167:17 202:3,4  
 202:15 205:13,15  
**datasets** 105:3  
**date** 12:11 16:13,25 17:5,5,8,11  
 17:12 60:14,16 103:12 200:21  
**dates** 4:11  
**Dave** 2:24  
**DAVID** 1:17  
**day** 28:6 152:6 165:23 218:6  
 227:14 233:10  
**days** 17:2,3,12 67:15  
**deadline** 77:9  
**deadlines** 91:14  
**deal** 12:5 35:8,13 96:8 133:20  
 136:20 172:16 180:12 183:12  
**dealing** 7:20 56:14 136:5 193:4  
 213:23 216:22  
**dealt** 140:19  
**dear** 172:16  
**debated** 76:25 77:3  
**Debbie** 101:8,16  
**debt** 68:2  
**dec** 31:20  
**decade** 31:20  
**decades** 218:14  
**decarbonization** 6:13 33:9 211:2  
**decarbonization's** 160:4  
**December** 39:16  
**decide** 10:18 13:17 89:3 147:12  
 196:9 198:13 223:15  
**decided** 11:16 78:7  
**decides** 227:2  
**deciding** 10:7 11:3 12:15 31:9  
**decision** 3:21 13:20 15:15 35:16  
 89:17 174:20  
**decisions** 35:15 202:9  
**deck** 225:22  
**declaring** 38:13  
**decline** 169:3  
**declines** 173:19  
**decrease** 50:20 151:6 173:14  
 186:24  
**decreased** 151:4 153:19 154:24  
 207:9  
**dedicated** 123:24 192:8 227:15  
**dedication** 148:22  
**deep** 130:13  
**deeper** 220:24

<b>defaults</b> 64:20	<b>depicting</b> 112:8
<b>defer</b> 13:22	<b>depiction</b> 110:5 120:21
<b>deferral</b> 50:19,22	<b>deployed</b> 105:16 205:7
<b>deferrals</b> 38:8	<b>deployment</b> 102:10 106:22 128:14 173:12
<b>deferred</b> 17:8 45:24 66:2,4	<b>Deputy</b> 73:24 101:17
<b>deficiencies</b> 185:17 189:2,5,21 189:22 190:2,8 195:7	<b>describe</b> 83:22 84:22 89:12
<b>deficiency</b> 188:24 189:6	<b>described</b> 83:4
<b>deficient</b> 217:25	<b>describes</b> 42:17 157:8
<b>defined</b> 109:10	<b>design</b> 202:8
<b>definitely</b> 9:14 65:18 115:5 134:19 142:24	<b>designed</b> 108:19 117:21
<b>definition</b> 44:11 118:22 137:2	<b>desire</b> 24:3,4,9 83:3
<b>definitions</b> 109:9,15 117:21,24 119:7,10,11 120:2	<b>desperate</b> 95:5 96:7
<b>degree</b> 114:24	<b>detail</b> 115:6
<b>degrees</b> 97:9	<b>detected</b> 186:3,8
<b>delay</b> 8:7,22	<b>detection</b> 159:15
<b>delete</b> 127:4	<b>detectors</b> 159:15
<b>deliberative</b> 22:4	<b>determination</b> 47:20
<b>deliver</b> 71:5	<b>determine</b> 16:20 42:22 53:9 89:3 154:6
<b>delivered</b> 114:11	<b>determined</b> 43:22 103:12 154:13 168:3
<b>delivery</b> 5:10 30:25 164:13	<b>determining</b> 87:23
<b>demand</b> 194:3 221:6	<b>develop</b> 6:13 33:9 66:16 83:11 114:6 185:17
<b>demolition</b> 150:11	<b>developed</b> 63:6,9 65:4,16 82:4 152:23
<b>demonstrate</b> 110:18	<b>developer</b> 229:11
<b>demonstrated</b> 145:24 153:16	<b>developers</b> 229:5
<b>demonstrates</b> 198:19	<b>developing</b> 68:24 82:2 85:16
<b>demonstrating</b> 203:22	<b>development</b> 40:16 41:11 42:4 50:22 54:5 82:7,18 83:16 85:12 93:24 115:14 116:8
<b>demonstration</b> 108:7	<b>device</b> 186:2,5,7
<b>denominator</b> 164:15	<b>Diane</b> 1:13 2:12 226:9
<b>denote</b> 110:11	<b>difference</b> 190:25 195:17 213:18 214:14 227:11
<b>denoting</b> 110:9	<b>differences</b> 90:7 156:12
<b>dense</b> 128:8 139:16	<b>different</b> 10:14,24,24 22:8 23:17 53:22 75:17 117:23 118:23,24 119:7,10 120:2 156:10 213:7 220:11 224:17 226:24
<b>densely</b> 105:18 157:4	<b>differs</b> 76:5
<b>density</b> 105:14 131:14 163:7 187:21	<b>difficult</b> 32:2,14 67:14 95:9 97:7 136:6
<b>denying</b> 169:21	<b>dig</b> 108:16
<b>Department</b> 8:8 39:25 41:9 43:7 43:23,23 46:8 68:15 78:24 82:3,8 83:17 84:5,10,16 85:10 91:2,9 93:9 94:23 102:23 103:8,17 104:13 105:3 149:20 174:14 182:6 210:10,16	<b>digital</b> 102:6 142:21 186:9
<b>Department's</b> 69:4 74:3 211:20	<b>digits</b> 31:6 164:12
<b>Departments</b> 91:11,21 92:15	<b>diligence</b> 11:2 28:21
<b>dependence</b> 207:19	
<b>dependent</b> 131:9	
<b>depending</b> 31:6 49:13 75:13	
<b>depends</b> 71:25	



**dinging** 180:25  
**dire** 52:9 209:24  
**direct** 23:19 131:2 192:15  
 211:23  
**directed** 23:7 41:4 81:24 117:16  
**direction** 208:5  
**directives** 20:10 160:21  
**directly** 5:2 111:21 112:13  
 113:18 116:18 118:9 133:12  
**Director** 101:16,17  
**directors** 7:6  
**directs** 83:9 84:4  
**Disability** 38:2  
**disaster** 38:13  
**disc** 66:18  
**disconnect** 58:23 193:18  
**disconnected** 47:21 66:18  
**disconnection** 38:19 46:2 51:8  
**disconnections** 38:14 39:18,20  
 40:2 63:22 65:14 170:17  
**disconnects** 69:15  
**discount** 15:17 37:19 40:9,16  
 43:12 46:17 47:2,5 51:12  
 107:16 129:22  
**discovered** 152:15 153:20  
**discovery** 4:4  
**discreet** 120:15  
**discrepancies** 106:2  
**discrepancy** 76:2  
**discrete** 87:14 105:10  
**discuss** 3:21 26:13 103:5 149:6  
**discussed** 36:3 84:24 100:8  
 106:18 116:11  
**discusses** 109:21  
**discussing** 135:2,3 225:5 227:3  
**discussion** 3:10 10:9 26:24 28:5  
 37:5 44:24 64:6 80:8,20 134:2  
 148:25 158:10 183:11 201:14  
 212:20  
**discussions** 41:23 83:18 84:15  
 98:4 189:11 196:13,15 226:5  
**dispersed** 43:18 44:2,18  
**dispute** 8:13  
**distinct** 93:6  
**distinction** 114:21 119:18,19  
**distressed** 67:13  
**distribute** 40:8  
**distributed** 210:18  
**distribution** 149:19,21 185:24  
 188:17 216:3 217:17

**districts** 112:9,21  
**disturbed** 229:16  
**dive** 130:13  
**diverse** 80:22,25 81:5,5,10,19  
 96:4 97:7  
**diversity** 80:10,19,21 81:11,15  
 82:4,6,21 94:2 95:2  
**divide** 23:2 115:3  
**DOH** 222:5,7  
**doing** 10:3 19:20 24:5,18 25:13  
 26:8,8 29:3 38:5 56:7 76:17  
 89:20 92:25 93:8 97:20 100:6  
 105:23 116:13,20 117:4 118:10  
 120:18 121:17 126:25 159:24  
 162:7 192:2,14 194:6 195:16  
 195:22 196:17 210:22 213:16  
 213:19 221:2,18 224:7,11  
 225:21 226:7  
**dollar** 55:17 70:25 71:3 217:4  
**dollars** 66:5 70:19 72:9 73:6  
 77:10 123:18 124:15 137:4  
 230:7  
**dominated** 98:8  
**don't** 198:13  
**door** 55:25 58:3  
**DOT** 118:16  
**double** 31:6 164:12  
**doubled** 52:21  
**doubling** 78:10  
**doubt** 32:4  
**download** 111:18  
**downward** 5:24 151:10 155:14  
 188:24  
**dozens** 143:19  
**draft** 3:15 4:12 6:21 7:17 8:15  
 37:13 38:2,7 40:18,19 44:11  
 45:2,20 46:3,12,14 47:3 48:2  
 48:12,23,25 49:4,8,12,16,24  
 50:8,12,14,18 51:17 58:7  
 61:20 64:9 72:12 75:11 80:18  
 83:4,9,19 84:4,10,19 85:12  
 86:13 94:9  
**dramatically** 98:17 218:5  
**draw** 81:2  
**drawn** 163:9  
**drill** 133:25  
**drive** 128:9 129:2 181:12 229:4  
**driven** 212:19  
**driver** 171:20  
**drivers** 178:7

**driving** 104:21 120:18 122:6  
 162:20  
**due** 4:11 8:7 11:2 16:25 17:5,5  
 17:8,11,12 33:3 35:9 38:20  
 55:10 64:23 91:14,14 97:7  
 150:13 153:13 154:11 166:25  
 169:17 170:15 187:20 203:11  
 205:4 225:7  
**dumping** 11:10  
**duplication** 47:9  
**duplicative** 43:25  
**duration** 202:5,12,14 203:4,11  
 204:21 206:9,13,14,17,21  
**duty** 144:6 182:3 192:7  
**dynamic** 138:21 146:24 147:4

---

**E**

---

**E** 16:11  
**E.A.P** 41:5,8,21,22 44:4,14  
 51:19,23 53:8,13 56:13,22,22  
 56:24,24  
**E.C.C** 107:25  
**E.I.A** 209:12  
**E.R.P** 176:2  
**E.S.T** 118:7 119:17 131:18  
**eager** 82:25  
**earlier** 49:23 75:5,10 77:16  
 99:4 135:4 156:10 171:20  
 193:23  
**early** 50:14  
**earmarking** 73:10  
**earning** 6:3  
**earnings** 6:5,6,8 166:12 170:22  
**easier** 57:17,18 138:21,22  
**easily** 67:13 78:9 112:14  
**easy** 68:25 69:3  
**echo** 164:9 197:3  
**eclipses** 69:24  
**economic** 40:16 50:22 54:5 142:2  
 211:18  
**economics** 136:5 142:5  
**economy** 41:18 64:22 127:21  
 229:4  
**Ed** 97:15  
**Edison** 97:12 187:2 188:5,8  
 203:8 205:11,16,21,24 206:12  
 206:15,21  
**Edison's** 205:10,13  
**education** 6:17 49:19,22 119:2  
 155:21 193:2

**Edwards** 1:14 2:18,19 28:24,25  
 29:8,18,21 36:10,11 60:7,8,20  
 61:3,5,25 62:14 63:3,8,13  
 66:22 79:12,13 93:13,14 94:8  
 94:15 100:14,15 127:13,14  
 130:15 131:22 132:14,18 133:7  
 133:15,22,24 134:5,18 135:5  
 148:4,5,8 162:15,16 163:8,14  
 164:3 176:24,25 184:7 196:25  
 197:2 215:14,20,21 227:25  
 228:2 231:10,11  
**effect** 153:6 170:16 202:14  
**effective** 12:10 14:8,11 171:2  
 182:15 210:16 220:18 229:11  
**effectively** 7:22 32:8 37:21  
 51:13 211:3 221:4  
**effectuated** 49:11  
**efficiency** 6:17  
**efficient** 106:22 141:16 159:21  
**efficiently** 141:13 204:14  
**effort** 49:17 52:4 59:23 84:8  
 85:20  
**efforts** 28:22 47:10 76:18 81:21  
 88:24 92:2,18,21 97:11,11,21  
 99:7 104:13 105:12 108:2  
 116:17 127:3,9 149:18 153:7  
 155:16,21 170:25 179:19  
 181:14  
**eighth** 184:18 201:14  
**either** 4:15,23 60:12,24 67:25  
 107:11 154:15 177:8 197:22  
 215:22  
**elected** 111:4  
**electric** 37:14 38:20 39:6,9,23  
 43:4 82:10 83:9 87:19 122:7  
 136:3,6 149:14 166:5 167:23  
 168:4,8,9,11 177:22 184:20,25  
 185:4,9,18 187:7 188:7,13,13  
 188:25 190:12 192:6 194:3  
 201:16,21,24 202:2,3 203:5  
 204:20 205:12 207:19 210:12  
 224:25  
**electrical** 95:22 185:10  
**electricity** 27:6 182:23 191:13  
 209:14,14,17,18 210:5 217:10  
 217:12 225:12  
**electronic** 155:7 159:4  
**elephant** 26:11 213:24 226:4  
**elephants** 212:19  
**eligibility** 42:22 43:21 47:19

112:3	<b>enrollment</b> 192:24
<b>eligible</b> 43:10,22 47:6 72:7	<b>ensure</b> 44:17 47:7 49:17 80:25
107:11,16 111:7 129:20	81:13,20 83:6 84:11 87:15
<b>eliminate</b> 37:15 153:2	88:2 90:9 93:20 120:20 132:6
<b>Eliminating</b> 51:3	152:22 171:7 194:7,16 210:11
<b>elimination</b> 155:17	<b>ensuring</b> 27:18 43:23 86:24
<b>else's</b> 138:22 212:3	119:4 158:8,13 171:4 174:8
<b>embarrassing</b> 182:18	195:15 207:20 221:5
<b>embrace</b> 59:21	<b>entailed</b> 124:16
<b>emergency</b> 38:13,16 42:12 69:10	<b>enter</b> 65:25 208:20
149:23 151:13,19,23 152:7	<b>enterprise</b> 93:10 142:3
153:5 155:24	<b>enthusiastically</b> 59:18
<b>emerging</b> 85:7	<b>entire</b> 34:12 51:23 227:23
<b>emission</b> 6:18 21:21 23:14	<b>entirety</b> 45:22 172:8 231:14
<b>emissions</b> 20:14,17 21:6	<b>entitled</b> 12:6 69:21 70:25 71:2
<b>emphasis</b> 159:12	<b>entity's</b> 43:20
<b>emphasize</b> 151:2 176:10	<b>environment</b> 155:10 210:15
<b>Empire</b> 115:14 116:7	<b>environmental</b> 27:24 91:2 211:19
<b>employee</b> 81:8 82:21 152:3	211:22
<b>employees</b> 83:10 194:5	<b>envision</b> 120:6
<b>employment</b> 7:8 34:6	<b>equipment</b> 202:18 206:4 223:9,12
<b>empowered</b> 69:15	<b>equity</b> 6:6,8 80:10,19,21
<b>enacted</b> 101:21	<b>era</b> 78:19
<b>encourage</b> 96:4 127:9 152:10	<b>ERAP</b> 42:13,19,24 43:12 47:11,18
161:25	47:19,21 48:5,6,9,17 67:6,8
<b>encouraged</b> 83:21,25 86:2 158:3	<b>error</b> 150:17,23 167:2
207:23	<b>escalated</b> 179:2
<b>encouraging</b> 98:9 171:2	<b>ESP</b> 1:8
<b>energy</b> 6:16 40:23 41:11,15,16	<b>especially</b> 13:13 15:6 22:9
42:16 43:10,11,18 69:23 73:5	24:14 26:3,17 54:4 87:7 126:6
73:9,17 94:4 209:15 210:18,23	147:6 160:10,13,19 161:11
211:18	163:6 174:19 193:6,25 194:15
<b>enforcement</b> 123:15	208:20 223:25 224:5
<b>engage</b> 4:6 6:16 83:21 84:5	<b>essential</b> 51:8 127:22
95:17 159:19	<b>essentially</b> 8:21 163:23
<b>engaged</b> 22:3 58:14 82:15,22	<b>establish</b> 41:5 43:8 116:5
88:11 102:24 160:9	170:20
<b>engagement</b> 13:8 81:8 92:22	<b>established</b> 17:12 53:12 82:21
117:11	104:24 167:12,25 168:16 203:4
<b>engineer</b> 97:23	<b>establishing</b> 41:21 52:10 122:13
<b>Engineering</b> 149:13	<b>estimate</b> 48:16 114:15
<b>engineers</b> 95:22 96:12	<b>estimated</b> 167:3,4 169:5,16
<b>enhance</b> 81:9 83:5 106:15 159:12	172:15,18,19 173:3,4,5,6,8,11
<b>enhanced</b> 46:19 96:17	173:14
<b>enhancement</b> 42:3,15	<b>estimates</b> 48:12
<b>enhancing</b> 159:20	<b>et</b> 169:13 181:3
<b>enjoyed</b> 113:22	<b>evaluate</b> 175:3
<b>enroll</b> 46:25	<b>evaluated</b> 153:24 154:17
<b>enrolled</b> 37:18 40:8 46:22 47:4	<b>evaluating</b> 84:10 176:6
51:11	<b>evaluation</b> 152:14

<b>evaluations</b> 152:14	<b>expectation</b> 60:17
<b>evaporating</b> 31:21	<b>expectations</b> 114:12
<b>event</b> 191:22	<b>expected</b> 60:11 105:10 106:19 152:24 190:9 205:5
<b>events</b> 202:22 207:6,7	<b>expects</b> 46:18 103:8 155:25
<b>eventually</b> 179:3	<b>expedited</b> 88:10
<b>everybody</b> 3:7 18:21 127:7 137:7 198:22 208:9 214:25 216:5 229:19,19	<b>expeditiously</b> 51:21
<b>everybody's</b> 216:2 225:24	<b>expend</b> 223:8
<b>evidentiary</b> 4:22	<b>expenditure</b> 77:9
<b>evolution</b> 83:14	<b>expenditures</b> 5:25 21:6
<b>evolve</b> 15:14 82:13 208:10	<b>expense</b> 170:12 223:17
<b>evolves</b> 208:13	<b>expenses</b> 64:23 137:4 167:7 170:5 230:4
<b>evolving</b> 225:11	<b>expensive</b> 136:6,9 137:3,3
<b>exactly</b> 11:18,19 14:17,21 111:5 122:12,13 217:20	<b>experience</b> 207:11
<b>examination</b> 23:12 164:24	<b>experienced</b> 205:23,25 207:5
<b>examine</b> 134:25 137:21	<b>experiences</b> 81:3
<b>examined</b> 96:22 149:21	<b>experiencing</b> 27:8 131:21
<b>examines</b> 152:12	<b>expertise</b> 54:9 84:6 87:15 117:6 212:21
<b>examining</b> 151:16	<b>experts</b> 82:9
<b>example</b> 76:9 91:2 187:5	<b>expiration</b> 39:15
<b>examples</b> 183:24	<b>expired</b> 74:16
<b>excavate</b> 150:18	<b>explain</b> 11:17 16:6 56:8 57:18 58:22 75:16 156:12 179:10 182:4
<b>excavation</b> 150:11	<b>explained</b> 17:14 58:21
<b>excavator</b> 150:17,18,23 155:22	<b>explaining</b> 178:7
<b>exceed</b> 154:18 174:16 209:20	<b>explains</b> 45:2
<b>exceeded</b> 114:12 167:24	<b>explanation</b> 54:24 184:2 224:12
<b>excellent</b> 100:24 130:13 139:19 165:18 201:12 215:18	<b>explicit</b> 85:21
<b>exceptions</b> 168:7	<b>exploited</b> 200:19
<b>excited</b> 92:23	<b>explore</b> 109:18
<b>excluded</b> 48:3 53:14	<b>exposure</b> 185:14 197:23
<b>excludes</b> 48:17	<b>express</b> 73:23 139:22 195:19
<b>excluding</b> 205:16 206:4,10,14	<b>expressed</b> 64:11 83:2
<b>exclusion</b> 7:11	<b>extend</b> 71:15 130:24
<b>excuse</b> 105:5 219:25	<b>extended</b> 86:3
<b>executive</b> 38:12 55:8 69:14 73:24 127:17	<b>extending</b> 195:4
<b>executives</b> 95:4	<b>extensions</b> 6:16
<b>exercise</b> 108:3 123:24	<b>extent</b> 46:2 67:21 69:6 142:8 174:18 178:4,19 181:17 230:6
<b>exhibits</b> 4:24	<b>external</b> 82:23
<b>exist</b> 103:21 128:22	<b>extraordinarily</b> 94:20
<b>existing</b> 5:24 23:6 42:16 44:7 83:6	<b>extraordinary</b> 30:25 48:20 141:8 145:4,5
<b>exists</b> 128:18	<b>extreme</b> 208:2
<b>expand</b> 107:10 129:19 172:18	<b>extremely</b> 34:7 146:3
<b>expansion</b> 106:16 121:3,21 205:4	<b>eye</b> 116:19
<b>expect</b> 20:21 71:22 87:22 124:4 196:2 209:13,16	

F	
<b>F.C.C</b> 115:13 116:9,13,15 118:8 118:13,14 139:23	119:10 121:2 135:19,24 138:23 142:14,21 160:13
<b>F.C.C.'s</b> 106:8,11 107:11,15 117:24 118:22 129:22	<b>feedback</b> 85:19 86:9 91:24 105:25 109:23 112:12,14,16 120:13 145:9 226:10
<b>F.C.C.s</b> 111:25 117:18	<b>feel</b> 11:2,5 58:21 59:11 78:17 90:9 213:9 214:12 220:23
<b>fabric</b> 104:16,17 106:12	<b>feet</b> 6:16
<b>face</b> 97:6 129:7 131:9 172:9	<b>fellow</b> 16:18 32:20
<b>faced</b> 35:14 213:3	<b>felt</b> 13:14 59:6 176:4 220:2
<b>facilitate</b> 83:18 211:2	<b>fence</b> 16:22
<b>facilitating</b> 86:18	<b>fencing</b> 7:9
<b>facilities</b> 150:10 185:9,22,24 186:15 187:3 188:16,17 189:18 189:20 190:7,19 195:6 222:2	<b>Ferrer</b> 201:17,18 207:16 208:14 218:17
<b>facility</b> 150:15 186:8 188:13 189:12 195:2 200:8,12	<b>fidelity</b> 90:9
<b>fact</b> 12:17 27:20 65:21 96:6 99:5 104:22 113:24 115:23 130:6 144:9 160:5 213:10	<b>field</b> 39:17 104:20 106:6 116:2 120:18
<b>factor</b> 87:21 88:22 89:19	<b>fifth</b> 149:7 194:22
<b>factors</b> 202:7	<b>figuratively</b> 145:8
<b>failed</b> 154:8 168:15,21 169:4 203:10 204:2,22	<b>figure</b> 22:16 133:8 182:14 213:12
<b>failing</b> 168:20 203:6	<b>figuring</b> 22:18
<b>failure</b> 150:17 168:17,24 169:17 179:22	<b>file</b> 4:19,20,23 6:14,17 21:21 42:2,20 46:19,24 84:20 146:23 166:15
<b>failures</b> 202:18 206:4	<b>filed</b> 3:24 5:8 6:20 16:5,9,10 16:12,23 17:10,21 18:8 20:12 21:4,23 32:25 33:10,14 35:6 44:4 49:23 88:11 169:11
<b>fair</b> 124:21 171:7 180:25 212:5 212:5,7	<b>filing</b> 4:7 17:2 49:12 50:11
<b>fall</b> 26:21,21 123:19 124:5	<b>filings</b> 31:12 216:11
<b>falling</b> 214:23	<b>fill</b> 113:17
<b>fallout</b> 57:10	<b>filling</b> 87:13
<b>falls</b> 112:10 187:19	<b>final</b> 2:6,8 16:23 17:11 58:15 58:15 77:20 143:24 144:6 153:24 201:14
<b>familiar</b> 21:11 25:16 116:12,12	<b>finalized</b> 18:8
<b>family</b> 133:16	<b>finalizing</b> 18:18
<b>fantastic</b> 127:10	<b>finally</b> 104:24 107:14 129:11
<b>far</b> 52:6 69:24 110:17 116:8 130:18 136:16 137:23 155:16 162:21 176:5 198:3	<b>financial</b> 7:13 38:21,24 50:25 87:21
<b>fared</b> 161:3	<b>find</b> 14:3 73:2 95:23 108:12,19 108:21 111:16 112:5 131:5 161:25 187:6
<b>farther</b> 73:14	<b>finding</b> 8:19 162:4
<b>fashion</b> 192:12 227:4	<b>findings</b> 134:23 186:10,13,16,18 186:19,22,25 187:4,6,7,21,24 188:2,3,6,10 190:2,18
<b>fault</b> 177:19 181:3 211:10	<b>finds</b> 7:17 8:15
<b>favor</b> 14:4,20 36:2 79:5 100:7 147:22 148:6,9 230:24	<b>fine</b> 223:11
<b>feature</b> 110:19 112:11	
<b>features</b> 108:17	
<b>Fed</b> 119:12	
<b>federal</b> 67:25 106:16,23 117:6	

<b>finer</b> 76:15 77:5	180:5 182:16
<b>Fiorello</b> 101:18	<b>follow</b> 75:7 99:3,18 143:23
<b>Fiorillo</b> 107:23	144:22 147:13 151:19 178:6
<b>fire</b> 159:5	195:21 200:14,23
<b>first</b> 3:9 5:13 11:11 16:5,10,24	<b>followed</b> 90:22 225:2
32:18 43:18 44:16 46:5 47:7	<b>following</b> 46:5 84:20 88:7 93:11
66:24 73:18 75:3 80:13 86:12	105:21 119:24,25 120:4 143:22
90:19 101:20 104:14 105:21	168:7 194:24
107:7 108:12 109:19,20 114:8	<b>follows</b> 107:6
127:17 131:24 139:21 143:18	<b>food</b> 54:11 66:7
150:8 158:23 160:25 173:24	<b>for-profit</b> 142:3
174:4 177:25 191:9,10 192:17	<b>force</b> 122:7
194:6 204:9 219:22 225:6	<b>forces</b> 229:6
226:13 228:7,10	<b>fore</b> 194:19
<b>fiscal</b> 42:11,22 86:23	<b>forecast</b> 209:18
<b>fit</b> 54:23	<b>forecasted</b> 6:2
<b>fits</b> 33:21 56:23 224:10 225:24	<b>forefront</b> 194:19
<b>fitting</b> 22:6	<b>foregoing</b> 233:3,6
<b>five</b> 49:13 52:15 58:14 75:13	<b>forget</b> 125:5
80:3 97:16 148:24 188:5,18	<b>forgive</b> 110:16
<b>five-</b> 185:24	<b>formally</b> 227:6
<b>five-minute</b> 79:25	<b>formed</b> 110:23
<b>five-years</b> 186:17	<b>former</b> 143:18,25
<b>fix</b> 198:2,13,15,23 199:2	<b>forming</b> 111:10
<b>fixed</b> 75:24 104:9 156:20,22	<b>forth</b> 153:3
<b>flag</b> 25:21 26:9 200:13,14	<b>forward</b> 11:9 13:6,18 20:19
222:21	25:22 33:18 38:10 53:3 54:10
<b>flagged</b> 22:19 123:11 226:3	71:23 85:24 86:8 89:24 91:18
<b>flagging</b> 22:11 123:11 126:13	91:25 93:2,17 95:16 96:22
222:16	98:17 99:16 100:8 105:13
<b>flammable</b> 165:2	107:20 113:20 115:7 119:4,14
<b>flapping</b> 228:12	120:14,22 132:5 136:25 143:6
<b>flat</b> 30:20	144:22 160:18 176:5 183:2
<b>flaws</b> 105:10	207:17 208:13 217:10 218:13
<b>flexible</b> 162:8	230:10
<b>Floor</b> 1:8	<b>foster</b> 107:17
<b>flush</b> 11:13	<b>found</b> 10:6 12:6 13:2 17:16
<b>fly</b> 228:12	78:20 82:12 103:17 104:3,4,7
<b>focus</b> 24:2 41:23 113:4 124:16	108:10 114:14 118:21 155:4
124:18 131:18 159:25 160:23	157:13 187:10 188:25 189:2,4
161:14,20 163:18 175:6 214:14	189:5,19,22 190:3,19
214:24	<b>foundational</b> 192:7
<b>focused</b> 41:2 44:9 61:20 84:12	<b>four</b> 150:12
88:14 124:20 191:24 194:2,7	<b>fourth</b> 101:4 153:23 194:11
194:23 195:15 210:25 213:12	205:2
223:10 226:20	<b>framework</b> 52:10 89:2
<b>folding</b> 176:14	<b>franchise</b> 140:6,11
<b>folks</b> 18:23 32:14 54:2,2 69:22	<b>franchises</b> 140:8
94:24 95:12 96:11,14 126:8	<b>frankly</b> 15:14 25:14 195:22
137:11 138:17 158:25 161:12	209:4,24 226:2,23

**free** 137:5 216:6  
**freezing** 69:15  
**frequencies** 154:13  
**frequency** 154:18 202:5,7,11  
 203:3,11,21 204:2,18,21,22  
 205:8,17,20 206:5  
**fresh** 45:24 60:3  
**friendly** 33:22  
**front** 80:14 124:7 133:18 135:8  
 142:9 218:4 229:23  
**frost** 153:10,14  
**fruition** 180:10  
**fuel** 160:6  
**fulfill** 116:14 146:18,19  
**fulfills** 146:9,17  
**full** 55:24 181:22 188:19 225:8  
**full-** 138:16  
**full-blown** 196:11  
**full-service** 180:6  
**full-throated** 92:22  
**fully** 8:21 59:22 87:22 92:10  
 123:13 202:11  
**function** 105:25  
**functionality** 109:24 112:12  
 120:13  
**fund** 76:21 77:10,20 106:24  
 122:13,17,18,23,25  
**fundamental** 142:5,12  
**funded** 46:4 49:9  
**funding** 40:13 47:8 56:2,4 62:9  
 62:12 68:8 78:8 106:14,16,20  
 106:23 111:7 117:5 118:16  
 122:11 126:6 131:19 142:21  
**funds** 37:22 42:23 43:9,25 46:7  
 46:10 48:9,15 51:14 52:20  
 54:5 59:20 67:12 72:24 78:10  
 78:13,15 121:2  
**further** 39:22 64:13 81:19  
 105:25 109:11 111:8 112:4  
 120:16 133:25 152:10 155:25  
 167:20 170:9 191:7 196:23  
**future** 6:18 8:5 20:11 21:2,9,19  
 41:3 48:17 71:25 74:7 77:3  
 84:23 93:24 106:16 158:11,15  
 169:14 174:19 210:23

---

**G**


---

**G-0394** 3:11  
**G.H.G** 21:6 23:14  
**Galasso** 101:8,12,14 115:20

117:12,14 118:4 119:16 120:8  
**game** 130:7 133:14  
**gap** 123:22  
**gaps** 103:20 111:5  
**gas** 3:11,17,18 5:22 6:18,19,20  
 19:9,12,17 21:7,21 22:4 24:11  
 31:2 33:22 37:14 38:20 39:6  
 39:10,23 43:3 66:7 82:10 83:9  
 87:3,19 95:7 98:11 149:14,19  
 150:10 153:4,11,12 158:12,25  
 159:8,21 160:5,16 164:12,19  
 164:24 165:4 166:5 167:23  
 168:5,8,9,11,12 169:2 177:22  
 188:7 210:12  
**Gas's** 6:23  
**gauges** 150:9  
**general** 14:19 20:9 30:13 73:11  
 73:23 76:21 77:10,20 112:16  
 129:5 151:25 153:15 155:22  
**generally** 64:12 153:9 174:11  
 178:6  
**generated** 78:13 105:24  
**generation** 211:8 229:12,13  
**generic** 20:10 21:14  
**generous** 67:9  
**geographic** 113:3  
**geographical** 152:5  
**geography** 202:13  
**getting** 5:3 11:19 12:4 19:15  
 35:13 89:25 95:10 120:17  
 180:23 208:8 212:10,18 213:10  
 223:10 228:24  
**giant** 67:3  
**gird** 182:14  
**give** 6:4 11:23 17:11 18:2 29:5  
 70:17 86:14 124:13 128:2  
 136:13 139:24 213:15 224:12  
 226:9  
**given** 32:11 48:19 91:24 125:8  
 125:25 223:24 225:6  
**gives** 127:25 135:24 174:18  
**Glad** 33:9  
**Global** 152:2  
**globally** 175:9  
**go** 3:9 9:20 10:19,25 13:6,18  
 18:23 24:21 25:22 29:7,9 58:3  
 65:12 66:6,24 67:12 72:9 73:6  
 74:16 95:10 96:22 108:6,20  
 113:8 118:4 125:4 136:16,25  
 140:4 142:4 148:25 195:14

197:20 199:6 212:9 216:20 217:12,13,21 218:3 223:5 226:15 <b>goal</b> 46:3 75:21 87:16 92:10 134:15 155:16 185:13 <b>goals</b> 19:17 83:5,15 84:12 207:18 229:6 <b>God</b> 141:3 <b>goes</b> 31:7 98:24 116:9 146:7 165:2 191:17 192:6 214:7 222:11 223:8 224:18 <b>going</b> 11:9 17:19 20:2,3 21:7,9 21:10 23:11,17,18 25:2 26:4,6 26:13 29:2 31:2 32:7,14 56:2 58:10 63:4,9,25 64:8 66:8,19 66:24 67:3 68:16 69:23 71:23 73:7 74:4 75:18 78:21 86:9 88:14 93:17 96:6 98:2 105:12 113:8 114:18 115:6,6 116:15 119:3 120:21 121:7 124:8,15 126:9 130:6,11 132:4,10 133:10 134:2 138:6,7 139:16 141:11,15 143:6,16 147:16,21 148:24 149:6 151:7 164:20 180:11,12 182:17,25 183:2,5 183:11,22 186:17 193:10 194:14 196:4 199:2 200:17 207:19 208:5 209:3 215:10 216:22 217:10,15 218:12,13 219:5,12 220:25 221:8,13 222:3 223:6 224:3,21 225:23 225:24 228:8 230:9,19 <b>gold</b> 110:25 <b>good</b> 2:3,19 3:14 20:6 28:4 34:12 37:11 64:24 80:6,17 90:21 93:16 94:5 96:9 98:12 99:25 101:11,12 125:5 127:5 127:10,25 135:10,23 138:2 140:23 141:6,17 142:25 149:5 149:11 160:22 164:21 166:3 184:4,23 192:9 196:8 201:18 203:22 208:3 218:16 221:6,17 <b>goodwill</b> 7:12 16:15 <b>gotten</b> 12:25 <b>government</b> 67:25 116:4 135:19 146:5 182:23 198:22 <b>government's</b> 138:23 <b>governments</b> 102:25 <b>Governor</b> 38:12 42:8 69:9,14 74:12,13 76:19 125:9,14	147:17 226:21 227:2 <b>Governor's</b> 214:19 <b>graduated</b> 97:8 <b>granular</b> 105:9 145:17,22 146:2 <b>granularity</b> 103:9 145:19,25 <b>graph</b> 151:12 155:15 186:15 188:2 189:25 205:8 206:9 207:2 <b>graphics</b> 126:17 127:2 <b>grapple</b> 54:22 <b>grassroots</b> 97:10,11 <b>grateful</b> 108:5 <b>great</b> 9:12 13:18 33:4 36:23 55:21 72:5 90:19 94:15 99:19 136:20 142:10 143:13 161:2 164:3 165:19 172:14 175:21 176:9 184:16 199:19,22 200:25 218:15 219:3 228:23 231:23 <b>greater</b> 45:5 103:9 107:20 114:24 129:11 131:14,14 132:24 153:11 186:20,23 207:20,20 <b>greatest</b> 99:10 106:17 129:14 133:3 <b>greatly</b> 154:10 <b>green</b> 41:18,19 188:6 <b>greenhouse</b> 6:17,19,19 21:21 33:10 <b>Gregg</b> 3:13 <b>grid</b> 38:5,8 40:6,12 50:21 55:6 162:18 188:6 203:8 207:19 213:12,15 221:17 222:16 224:6 224:7 229:14 <b>Grid's</b> 40:15,17 50:12,21 <b>Grid's</b> 40:9 <b>ground</b> 160:12 228:17 <b>group</b> 41:5,8,22,22 44:4,14 51:19,23 53:8,10,13 56:13,16 56:23,24 60:11 64:2,10 71:14 83:17,20 84:2,8,15,21,25 85:6 86:19 97:23 98:4 <b>grouping</b> 187:3 <b>groups</b> 53:22 54:12 82:22 97:22 <b>growing</b> 41:6 42:10 <b>grown</b> 61:13 <b>growth</b> 42:10 <b>guess</b> 12:12,14,20 13:23 14:25 16:2 22:2 53:19 60:18 91:22 93:7 116:22,23 122:11 123:11 135:5 200:6,16 213:2
---	--



**guidance** 82:17 106:4 120:10  
174:18 195:24

**guide** 82:18

**guidelines** 28:18 88:8

**guys** 66:25 73:21,22 74:8

## H

**half** 5:7 32:23,24 52:16 75:20  
205:23

**Hamilton** 103:24 137:20 138:5,14  
139:17

**hand** 108:18 217:13,13 229:3

**handful** 77:16

**handle** 19:19 20:5

**hands** 7:25 136:22 222:12 223:6  
225:22

**HANNAH** 233:3,13

**happen** 25:6 63:4 88:10 97:12  
139:9 164:20 175:22 210:2  
212:3 215:11

**happened** 25:14 113:25 143:21

**happening** 22:18 182:3,4 210:2

**happens** 24:25 127:25 131:20  
136:16 197:7

**happy** 100:2 147:9 156:5 171:15  
207:13

**hard** 9:16 11:19 28:21 32:22  
35:9 77:8 78:5 95:23 115:7  
126:8 148:22 191:17 217:16  
230:7

**harder** 136:8

**hardship** 38:21

**harm** 50:25

**harmful** 185:16

**harmonize** 17:4

**hate** 71:24 178:16

**hazard** 157:21 203:25

**hazardous** 152:16,20 157:25,25

**hazards** 185:16

**head** 226:15,15,15,17,18

**Healthy** 41:20

**HEAP** 42:17,19 43:12

**hear** 33:10 110:3 117:25 128:19  
133:18 134:19 143:8 159:9

**heard** 145:13,19 200:22 207:25  
214:12

**hearing** 4:22 117:10 120:14  
144:17 147:2 157:2 163:11  
233:8

**hearings** 16:13

**heart** 89:25 127:4

**heating** 5:9 29:13

**heels** 226:17,18

**held** 45:2,10,13,16,18,22 48:13  
50:24 180:14

**help** 15:15 24:20,23 54:10,15  
60:2 74:8 80:25 90:9 107:21

115:2 126:22 160:19 161:19,21  
163:21 166:11 194:16

**helped** 163:25

**helpful** 54:24 55:22 59:4 74:19  
115:6,11 175:18 176:17 192:14  
227:7

**helping** 59:10 87:15 108:2  
160:15

**helps** 19:19 81:6,20 174:18  
211:14 228:16

**hereof** 233:5

**hereto** 233:5

**hereunto** 233:9

**hey** 97:24 181:20,22

**high** 30:25 32:5 152:6 154:16  
155:13 162:24 163:2 164:12  
171:5 177:9,10 178:5,8,13  
179:12,20 183:4,5 204:20

**high-** 104:9

**high-speed** 101:25 102:3,8,12  
103:19,20 104:2 118:22

**higher** 52:24 105:19 110:11  
128:24 131:16,16,21 163:6  
177:10,21 179:7 207:22

**highest** 30:16 104:4 129:7,12  
130:2 131:25 132:20,25 133:13  
189:6 190:8 195:6

**highlight** 161:20 221:16

**highlighting** 111:6 121:13

**highly** 35:11 157:4

**hires** 81:13

**hiring** 81:16 82:24 86:14 87:6  
88:9,14 94:10

**Hispanic** 97:23

**historical** 186:16

**historically** 152:6

**history** 31:18

**hit** 197:9,14 228:17

**hits** 26:18 197:9

**hitting** 27:13

**Hogan** 30:7,10,10,10 80:12,12  
88:17 91:6 92:13 96:23

**hold** 47:13,13 215:8,8

**holding** 5:15 29:14  
**hole** 199:11  
**holistic** 214:2  
**holistically** 224:17  
**home** 27:13 42:16 123:5  
**Homes** 41:20  
**hone** 195:12  
**honoring** 7:8 34:8  
**hood** 219:18  
**hook** 137:19 138:20 139:2 179:18 216:9  
**hookup** 137:4  
**hope** 93:10 95:16 96:5 98:15 137:6,14 139:21 147:11 210:25 218:15 228:16  
**hopefully** 91:18 99:14 134:14 142:25  
**host** 182:24  
**hotlines** 177:18  
**hours** 206:17,18,22 207:8  
**house** 123:9  
**households** 107:16  
**houses** 136:9 226:25  
**Howard** 1:18 2:22,23 29:21,22 30:4,8,11 32:16 34:19 36:15 36:16 66:22,23 68:7,18,22 69:13,18 70:9,16,24 71:4,11 71:19 72:5,14,18 73:2 74:18 74:22,24 78:3 79:14,15 94:18 94:19 96:24 98:5 100:16,17 135:15,16 148:11,12 164:6,7 177:4,5,16 178:3,11 179:6,21 181:16 182:8 183:16,25 184:4 197:5,6,13,18,25 198:5,8,14 198:18 199:10 200:10,16,25 215:24,25 228:5,6,23 231:12 231:13  
**Hudson** 168:8,9,13,19 171:19 203:10,13,19,24 204:15  
**huge** 225:18  
**Human** 41:14  
**hundreds** 65:19 66:5  
**hurricane** 218:16  
**hydrogen** 158:12 165:4

---

**I**


---

**I.O.M** 89:12  
**I.S.O** 27:22 209:19 214:7,19  
**I.S.P** 104:23 120:11 135:20 136:14 140:9

**I.S.P.-provided** 107:12  
**I.S.P.s** 107:22 139:25  
**I.T** 56:21 62:4  
**I'll** 3:23 191:4  
**I'm** 89:23 90:21 147:9  
**I've** 15:19 35:10  
**idea** 68:9 86:16 164:21  
**ideas** 56:15 81:2  
**identification** 41:25  
**identified** 105:16,20 119:8 154:3,7,15,19 167:18 200:12 203:24  
**identify** 46:16 83:20 94:11 96:5 107:7 129:24 152:3 166:17 185:15 202:5  
**identifying** 84:17 129:17  
**illuminating** 113:22  
**imaging** 151:15  
**immediate** 37:20 202:14  
**immediately** 156:17,20 159:2  
**impact** 4:14 5:10 25:7 29:15 31:5 38:24 44:20 48:20 52:13 52:14,21 57:2 75:8 84:13 87:22 90:3 97:17 106:25 192:11 203:21 204:18 212:2  
**impacted** 40:11  
**impacting** 153:7  
**impacts** 5:16 7:16 21:5 30:16 49:15 50:6 56:4 75:14,20,23 211:8  
**impairment** 16:15  
**impassioned** 214:11  
**implement** 38:6 160:20 202:19 210:22 226:10  
**implementation** 37:7 64:12 67:5 85:8 171:21 199:17 225:2  
**implemented** 37:25 42:14 62:10 64:2 65:17 70:14 82:19 90:8 105:25 167:21 170:23 173:15  
**implications** 24:6 211:6 226:22  
**implicit** 81:12  
**implore** 26:22 215:11  
**importance** 192:4 207:21,22  
**important** 22:3,17 26:16 27:2 30:24 31:8 33:2,17 34:7 50:25 52:8 53:24 54:12 55:3 56:5 57:16 58:24 70:6 90:11 98:25 100:2 102:13 109:13,25 112:11 113:24 118:21 125:5,24 127:16 135:2,17 138:11 142:7,15

144:17 158:7 159:6,9,24	<b>incomes</b> 129:9,12 131:16 132:22
161:11,18,22 162:23 174:22	133:2
181:4 183:2 191:12 192:16	<b>incorporate</b> 15:10 84:24 105:23
193:13 194:10,16 208:19,25	162:4
209:6 216:5,24 217:7,18	<b>incorporated</b> 175:9 192:12
221:15 229:15 230:9	<b>incorporating</b> 106:11 152:9
<b>importantly</b> 46:14 61:16 103:20	<b>incorrect</b> 16:14 178:15
109:23	<b>increase</b> 5:10,16 8:3,23 29:15
<b>impossible</b> 15:4	29:16 32:24 34:20 35:5 39:13
<b>impressed</b> 146:21	42:6 63:20 64:23 94:25 98:17
<b>impressive</b> 91:17 144:2	107:15 129:21 151:3 155:2,3
<b>improperly</b> 12:16	155:12 194:13 195:22 209:18
<b>improve</b> 81:18 105:22 162:19	<b>increased</b> 24:9 103:9 110:3
204:8 218:5 225:15	115:5 131:19 153:20,22 154:23
<b>improved</b> 82:20 150:5,20,23,24	161:14 192:24 193:9,24
151:23 153:18 206:15	<b>increases</b> 3:25 5:5 14:20 31:11
<b>improvement</b> 83:13 151:6 153:16	64:23 70:4 173:18 209:13
155:25 160:2,16 167:20 215:7	<b>increasing</b> 24:2,7,8 130:23
<b>improvements</b> 5:23 152:11 156:2	136:21 225:9
159:16 191:23	<b>increasingly</b> 191:25 216:16
<b>improves</b> 81:7	<b>incredible</b> 108:5 227:12
<b>improving</b> 191:25	<b>incredibly</b> 119:24
<b>in--</b> 21:2	<b>incumbent</b> 15:5
<b>inability</b> 38:25	<b>incur</b> 168:18 203:14
<b>inaccuracies</b> 105:10 120:15	<b>incurred</b> 123:14 154:21 169:8
147:6	<b>incurring</b> 204:3,23 223:16
<b>inaccurate</b> 150:13	<b>independent</b> 7:6 84:5
<b>inadequate</b> 128:18	<b>index</b> 206:13,14
<b>incentive</b> 17:2 142:3 174:24	<b>indicate</b> 143:5
<b>inch</b> 126:23	<b>indicated</b> 33:20,23 77:8,16
<b>incident</b> 172:22,22	145:9 146:25 199:14
<b>incidents</b> 173:2	<b>indicates</b> 150:4
<b>include</b> 49:19 94:10 130:17	<b>indicating</b> 206:15
149:23 152:16 203:3	<b>indication</b> 87:5 178:14 208:4
<b>included</b> 42:12 46:23 62:19	<b>indicators</b> 166:11 169:24 170:19
64:25 78:25 93:18,20 94:13	<b>individual</b> 49:21 59:24 111:9
111:24 129:16 167:16 185:8	115:22 139:2 146:2 167:25
<b>includes</b> 6:9 34:6 41:8 42:23	199:13 201:23 221:11 222:23
43:2,11 80:24 159:14	228:20
<b>including</b> 5:21,23 7:6 41:6,25	<b>individually</b> 8:17
51:5 87:2 102:24 105:24 162:3	<b>individuals</b> 80:25 94:3 97:18
193:12 206:12 209:19 220:12	114:25 141:14
<b>inclusion</b> 34:4 80:10,19,21	<b>indoor</b> 169:19
81:11,16 82:4,6	<b>industry</b> 84:17 115:17 160:19
<b>inclusive</b> 81:7	162:2
<b>income</b> 38:9 44:11 45:23 47:4	<b>inflationary</b> 32:6
64:15 65:21,22 76:5 81:25	<b>inflection</b> 94:22,23
104:4 107:13,18 129:6 130:2	<b>information</b> 15:18,22 26:17,22
131:25 132:20 133:5,16 134:9	27:14 74:20,22 81:22 104:25
<b>income-based</b> 42:13	105:5,24 106:6 111:14,22

114:6 116:3 118:19 124:14	<b>interested</b> 103:7 130:21 137:7
125:18 133:19 145:10 149:16	<b>interesting</b> 110:19 114:3,14
168:20 173:10 174:17 182:2	183:15 207:16
185:2,4 192:16 195:13 201:23	<b>interests</b> 166:12
209:12 224:7	<b>internally</b> 59:2 123:14 196:9
<b>informational</b> 192:13	225:5
<b>infrastructure</b> 6:24 26:3 102:15	<b>internet</b> 102:25 104:19 106:4
105:2,15 111:5 121:12,15	120:10,17 139:8,11
123:6 159:16 163:10 173:15	<b>interplay</b> 57:5
193:4 194:15 199:18,20,22	<b>interrogatory</b> 167:16
200:19	<b>interruption</b> 202:3 205:17,20,23
<b>initial</b> 84:21 86:19 88:11	205:25 206:13,14 207:9
115:23 140:11 178:24	<b>interruptions</b> 202:5,17,20
<b>initially</b> 5:8 32:25 35:6 54:16	203:16,18 204:5,6 205:2,4,11
54:22 128:5 220:14 226:13	206:3,6 207:4
<b>initiated</b> 123:25	<b>intervals</b> 151:17,18,23
<b>initiating</b> 80:18	<b>intervener</b> 4:4
<b>initiative</b> 41:20 50:12 85:17	<b>Interveners</b> 219:24
<b>initiatives</b> 82:20 107:5 134:9	<b>intervening</b> 40:4
<b>injury</b> 186:6	<b>Intervention</b> 8:9 41:10
<b>inner</b> 57:7	<b>interview</b> 81:10
<b>innovation</b> 210:19	<b>interviewed</b> 89:15
<b>innovations</b> 159:14	<b>interviewers</b> 81:12
<b>innovative</b> 159:12	<b>interviews</b> 82:9 89:15
<b>input</b> 83:8 86:9 88:6,13,20	<b>intolerance</b> 216:17
89:19,22 104:17 105:24 116:6	<b>intra</b> 116:4
<b>inserts</b> 49:20	<b>introduces</b> 109:23
<b>inspect</b> 189:14 190:6 195:5	<b>invaluable</b> 111:3
199:3	<b>inventories</b> 106:7 120:19 152:13
<b>inspected</b> 188:18 189:18,22	161:7
<b>inspection</b> 185:9 188:20,22	<b>inventory</b> 20:15,18 116:2
189:13,21 190:2 195:2	<b>invest</b> 206:6
<b>inspections</b> 104:21 188:15,23	<b>investigate</b> 130:9 132:9
206:7	<b>investigations</b> 150:2 154:5,12
<b>inspectors</b> 185:25	<b>investigative</b> 129:24
<b>installation</b> 107:2 122:25	<b>investment</b> 202:8
<b>installations</b> 193:25 199:21	<b>investments</b> 21:6
<b>instance</b> 97:12,22	<b>invitation</b> 134:19
<b>instances</b> 177:19	<b>invited</b> 53:13
<b>integral</b> 158:14	<b>inviting</b> 54:7
<b>integrity</b> 159:7	<b>involved</b> 16:14 92:23 115:19
<b>intend</b> 89:4,8	122:3,6 126:8 165:7 194:20
<b>intent</b> 150:18	211:14
<b>intention</b> 89:6	<b>ironic</b> 73:3 217:10
<b>Inter</b> 89:12	<b>Ironically</b> 31:13
<b>interaction</b> 21:11	<b>irrelevant</b> 8:21
<b>interactive</b> 101:20 102:22,23	<b>Isaias</b> 207:10
103:3 104:24 108:7	<b>Isakower</b> 107:24
<b>interest</b> 8:20 10:6 17:17 35:18	<b>Island</b> 41:12,12 61:18 84:3
138:25	162:18 189:8,12,17 190:3

192:12 195:9,10 196:6 203:9  
**issuance** 23:13  
**issue** 3:20 13:12,13 14:14 23:24  
 23:25 24:8,13,17 25:12,15,18  
 26:10,13 27:24 31:16 34:7  
 54:16 57:3 74:13 76:6,15  
 78:19,25 86:12,16 88:21  
 123:11,12 126:10 135:2,3  
 136:24 139:4,5,5 144:14  
 145:14 172:9 175:23 178:22  
 182:9,9 183:12,19 187:10  
 200:14 211:25 214:11 216:2,22  
 217:14 220:18 223:18 228:24  
 228:25 229:17  
**issued** 20:9 21:5 38:12 40:22  
 167:4  
**issues** 4:20 10:7,19,24 11:6  
 17:24 20:2 21:14,16,18 22:9  
 23:10 25:7,11,22 26:5,12 27:5  
 27:7,8,12 35:2 41:6,25 54:5  
 56:5,13,14 57:12 59:10 102:16  
 117:10 124:2 126:6 127:18  
 137:16 138:6 140:18 145:15  
 154:3 155:4,5 162:3 167:13  
 169:19 172:4 181:14 191:2,3  
 194:13,14 208:18 211:9 220:9  
 221:2,4 226:5,12  
**issuing** 120:10  
**It'd** 52:23  
**it'll** 80:10 222:3  
**it's** 57:19 177:13 226:11  
**item** 3:9,10 26:17,22 28:5 33:5  
 33:14 36:24 37:5,6,12 54:17  
 59:8 79:23 80:8,8 90:2,12  
 93:15 99:11,18 100:2,25 101:5  
 101:5,19 130:5,5 148:20 149:7  
 149:7,14 165:22,23 166:4  
 179:2 184:18,19,19 193:23  
 201:15,15 209:12 219:11,12,13  
 219:19 220:23 221:9,9 224:2,2  
 224:3,4,20,23,24 228:7,7,8,25  
 230:20,20 231:21  
**items** 26:15,20,24 27:15 33:19  
 54:17,18,19 55:4,5,18,20  
 130:9 148:25 183:8 216:21  
 219:8,11 220:11 224:13,17  
 228:15 231:8,21  
**iteration** 103:10 107:21  
**iterative** 110:2

---

**J**


---

**J1**:17  
**J.P** 14:8 16:12,16 17:9 21:8,12  
 21:13,17,19 29:15 32:12 36:3  
**J.P.'s** 23:6  
**James** 1:15 2:14  
**January** 185:7  
**Jeff** 30:10 80:11,12 85:16 98:22  
 99:3  
**jeopardy** 77:13  
**Jim** 16:18  
**job** 184:4 218:15  
**jobs** 95:6,8,15 98:7  
**John** 1:16,18 2:22 3:3  
**joined** 32:12  
**joint** 4:7,9,13,25 6:25 7:2,4,20  
 8:10 11:17 16:3,5,9 17:21,25  
 18:6,7,7,15,19 20:18 28:18  
 32:23 39:24 41:9 42:3 48:19  
 49:21 61:17 149:18 169:25  
**Journal** 114:2  
**Judge** 3:13 9:5,22 21:11 25:17  
 28:8,25 29:23 34:4,11 35:19  
 36:25  
**judgements** 217:16  
**judgment** 11:23 146:16 217:3  
 218:10,11  
**July** 5:6  
**jump** 181:9  
**jumped** 204:25 228:10,14  
**jumping** 137:15  
**June** 1:6 20:22 46:19 47:12  
 58:12 209:20 233:10  
**jurisdiction** 46:14

---

**K**


---

**Kayla** 165:25,25 174:4 175:15  
 178:23 184:5,9  
**keep** 18:11,12 25:23 31:17 32:7  
 49:14 75:13 121:7 193:8  
 194:12,19  
**keeping** 155:4  
**kept** 145:18 166:24  
**Kevin** 175:22 225:22  
**key** 41:24 118:24 127:24 183:17  
**kind** 13:23 17:19 18:22,24 19:10  
 22:16 26:14 37:10 53:25 93:6  
 101:20 123:21,22 124:7 195:12  
 195:24 208:22 209:2 223:21

**King** 107:24**know** 3:7 10:21 11:5,13 13:21

18:11,13,15,16,20 20:8,9,16

21:17 22:11,13,14,15 23:3,12

23:15 25:3,4,14 27:10,11

30:21,24 31:20,23 32:12 34:19

35:14,15 52:3,6 53:20 54:11

54:16 56:9,12,14 57:3,3,9,10

58:6 61:9 65:18,23 68:18

70:13 71:8,9,21,21,25 72:6,9

73:16,21 74:2,15,15 78:6

85:17,20 89:6 94:22 96:5 97:9

97:11,23,25 98:9 112:14

113:22 114:4,7,14 116:9,10,15

116:17 117:9 118:7,18 119:10

123:4 124:4,10,16 125:18

126:5,9,18 127:3,6,7,16,23,25

128:4,5,8,17,23 129:2 130:4

130:12,13,21 131:3,13,23

133:4,7 134:14,15 135:9,22

137:24 138:16 141:12,25

142:24 144:13,17 145:16,23

147:8 156:8 157:7 158:3,5,7,9

161:11 174:7 175:15,16,22

176:7,16 177:6,18 178:17

179:17 181:11 182:6,11,15,16

182:21 183:10,11 192:22

194:12,15 195:11,23,23 196:2

196:6,14 197:20,21,22 198:21

198:21,25 199:7 200:7 207:17

209:3,8,25 213:5,6,11,14

216:5 217:4,20 218:5 222:22

222:25 224:10,13 225:20

226:15,16 229:17

**knowing** 138:19 142:10**knowledge** 62:13**known** 104:15

---

**L**

---

**L.D.C** 150:14 154:8 155:16**L.D.C. 's** 151:14,22 152:10,12  
155:6**L.D.C.s** 149:22 150:5,9,16,21

151:25 152:25 153:15,24 154:6

154:19,21,23,24,25 155:11,20

**L.P** 6:24**Labelle** 101:9,11,16 118:3,6

120:23 121:16,20,23 122:5,16

122:20,24 125:11 130:14

132:11,17 133:6,11,21,23

142:19

**lack** 102:8**lags** 128:14**laid** 20:15**landed** 195:23**landing** 108:8,17 113:9**lands** 112:21**language** 77:6 111:24 169:25**Lansing** 219:20,23 220:12**large** 5:19 27:17 30:12 31:11

33:3 64:18 76:19 81:2 87:11

87:17 97:3,17 108:4 136:19

137:9 139:10 179:23 205:12

230:3

**largely** 188:10 218:7**larger** 45:12 87:18 163:7**largest** 72:7 187:3 204:5**laser** 124:20**Lastly** 107:3 161:24**late** 54:20 55:5**latest** 62:24 209:15**laud** 78:23**Lavery** 80:11,16 94:7**law** 3:13 4:17 38:14 41:13 55:8

55:10 135:24 147:19 212:24

**Lawrence** 168:12**laws** 143:19**layer** 112:18,25 113:5**layers** 112:19**lead** 59:10 64:20 82:7 90:20

131:20 214:25

**Leadership** 6:11**leading** 4:7 22:8 205:2**leak** 149:24 151:15,15 152:12,17

153:3,17,19 155:23,25 156:15

157:3,5,13 159:3,15 161:2,7

162:17 163:7 165:3

**leak-prone** 5:22 9:7,8 24:16,19

25:10,11 161:4,7

**leakage** 152:21**leaks** 152:13,14,15,16,18,20,24

153:2,8,20,21 156:11,13,22,24

157:15 163:2

**lean** 220:19**leaning** 159:18**learn** 83:3,7 112:2 141:11 175:4**learned** 86:6 91:7 175:12 191:15**leave** 30:18 94:24 135:6 158:25**leaves** 15:17 31:21**leaving** 28:15

<b>left</b> 19:10 141:12 142:10	<b>lines</b> 155:15
<b>legal</b> 70:17,20,22	<b>link</b> 111:21 112:2
<b>legislation</b> 117:20 134:21 226:20,25	<b>linkage</b> 8:9,20 10:3 23:24 122:4 211:23
<b>legislative</b> 42:9 62:9 143:20 146:9,17,18 160:21	<b>linkages</b> 161:24
<b>Legislator</b> 143:19 144:2	<b>linked</b> 54:25 55:20 124:17
<b>legislature</b> 42:8 68:10,14 76:19 78:2,6,7,16,20 90:23 117:17 117:21,23 122:12 124:8 125:8 125:9,14 135:23 143:17 144:18 146:9,16 147:10 216:21 225:6	<b>LIPA</b> 41:13 43:5,20 86:4 189:10 194:24,25 195:11 213:5
<b>lessen</b> 205:6	<b>list</b> 47:11 111:16
<b>lessons</b> 27:9 141:10 175:4,12 176:12 191:15	<b>listen</b> 26:25 89:18
<b>let's</b> 20:21 25:23 112:24 113:8 141:9 218:15 226:13,13	<b>listened</b> 212:22
<b>letter</b> 46:20,24 63:9 125:13 178:6	<b>listeners</b> 26:23
<b>letters</b> 49:20 63:11	<b>literally</b> 145:7
<b>level</b> 68:2 96:11 99:12 103:5 104:13 109:9,14 110:6,7,13 111:11 112:6 113:13,13 115:6 117:6 120:2 130:23 131:19 140:24 145:18,22,24 146:4 186:23 189:23,23,23,24 207:21 207:22	<b>litigant</b> 12:22
<b>levelized</b> 3:25 5:4,7	<b>litigated</b> 8:3
<b>levels</b> 34:6 44:20 50:5 67:17 95:25 96:17 102:16 169:20 170:3 171:5 186:24 202:13 204:20	<b>little</b> 5:7 15:2 16:6 21:10 23:16 29:2 31:22 56:9 75:16 138:24 141:24 163:20 183:23 196:5 216:9 218:11,12
<b>leveraged</b> 140:15	<b>live</b> 138:17 140:9 180:10
<b>leverages</b> 37:22 51:14	<b>lives</b> 97:19
<b>Lewis</b> 103:25 138:5,14	<b>living</b> 221:25 222:24
<b>Liberty</b> 168:12,13,21,25	<b>load</b> 194:4 208:21 211:8
<b>lieu</b> 57:19	<b>local</b> 7:7 41:19 42:21 102:25 149:21 182:22
<b>life</b> 102:6 135:11 157:21 172:19	<b>localities</b> 182:11
<b>light</b> 159:3	<b>location</b> 7:7 104:16,17 105:6 106:12 108:15 109:19 111:15 156:18,19 157:9,13
<b>lighter</b> 110:11	<b>locations</b> 103:13,14,15 104:6 107:9 124:22 187:20 229:11
<b>lighting</b> 192:20,23 193:4 199:15	<b>locked</b> 12:2
<b>lights</b> 186:2 217:21	<b>locked-in</b> 12:7 14:7
<b>liked</b> 11:7	<b>lodged</b> 178:25
<b>limbs</b> 203:16	<b>long</b> 41:12,12 61:18 84:3 88:7 98:9 114:7 135:6 147:11 162:18 189:8,12,17 190:3 192:12 195:9,10 196:5 203:9 218:3 222:3
<b>limit</b> 186:5	<b>long-standing</b> 15:11,11
<b>limitations</b> 23:15	<b>long-tenured</b> 94:24
<b>limited</b> 70:8,11 87:11	<b>longer</b> 163:3 179:25 180:2 206:19,23,24 211:13 214:9,9
<b>limits</b> 140:25	<b>look</b> 10:13,23 28:6 31:13 33:11 53:25 54:4 56:2 61:8 73:18 85:24 98:17 99:16 107:20 112:25 113:20 116:24 125:4 128:10,22 134:12 143:6 144:21 145:21 160:18 161:2,9 175:3,7 178:18 183:10 191:21 192:16
<b>line</b> 6:11,16 26:24 77:21 95:6 98:8,11,12 138:4 229:18	

193:6 198:25 208:21 209:25 210:25 211:5,7,8 213:11 214:21 222:14,25,25 223:21,23 225:12,14 226:2,24 230:10 <b>looked</b> 10:18 25:5 53:10 54:14 77:7 208:20 220:3 226:4 <b>looking</b> 11:11 14:7 22:18 27:11 53:9 54:20 55:23,25 78:9 86:8 89:24 91:18 93:2 114:10,15 119:13 120:14 121:11,14 123:16 124:2,25 126:17 130:10 134:15,16 135:7 146:6,23 161:12 176:11 180:25 192:25 195:13,16,24 208:13 209:11 210:7 211:13 213:3 214:23 220:2 221:21 224:6,9,17 225:10,20 <b>looks</b> 18:12 122:10 154:2 <b>lose</b> 65:12 123:18 <b>losing</b> 124:13 <b>loss</b> 38:23 <b>lost</b> 27:5,7 53:23,24 153:4 180:21 <b>lot</b> 22:12 26:3,19 28:20 52:3 53:22 57:23 58:11 73:14,15 74:3,6 78:5 86:5 92:25 107:19 126:4,19 128:10,23 131:10,15 138:7 139:13 163:3 191:15,17 191:22 193:25 209:7 210:21 213:16,17 217:20 222:23 225:18,18 227:15,16,16 <b>lots</b> 158:9 <b>low</b> 38:9 44:11 64:15 65:22,22 81:25 107:12,18 161:7 196:7 211:5 <b>low-</b> 45:22 47:3 65:20 76:4 134:9 <b>low-income</b> 37:7,16,20,23 38:8 39:23 40:2,5,9,15,20 41:25 44:7,21 45:3,10,13,16,18 46:16,21 48:13 50:7,9,16,19 51:4,10,11,15 55:16 58:2 61:12,15,21 62:17 63:16 64:3 65:2,5 69:22 <b>lower</b> 129:10 131:12,20 132:23 157:6 163:20 186:7 <b>lowers</b> 51:7 <b>lowest</b> 104:3,5 129:6,8,13,25 130:2 131:25 132:2,19,21 133:3,14	<b>Luckily</b> 196:7 <hr/> <b>M</b> <hr/> <b>M</b> 1:12 <b>M-0479</b> 38:4 <b>M.I</b> 219:24 <b>Madam</b> 2:5 231:24 <b>Maggiore</b> 1:16 3:4,5 34:17,18 35:25 36:21,22 77:24,25 79:20 79:21 99:21,22 100:22,23 144:11,25 145:2 148:17,18 165:15,16 184:12,13 201:8,9 218:23,24 230:17,18 231:19,20 <b>magnitude</b> 156:13 216:18 <b>main</b> 108:8 169:2 <b>maintain</b> 69:23 158:8 176:3 <b>maintained</b> 204:20 <b>maintaining</b> 113:16 116:19 <b>maintenance</b> 104:15 153:4 185:12 202:8 206:7 <b>major</b> 3:19 17:23 18:20 28:17 31:23 39:23 59:20 116:6 122:6 145:14 149:19 201:24 202:15 202:25 205:16 206:3,4,11,12 206:16 207:4,6,8 216:18 224:24 <b>majority</b> 122:7 139:8 188:9 <b>makers</b> 217:20 <b>makeup</b> 10:23 <b>making</b> 12:20 15:15 54:8 69:2 97:6,21 116:25 122:3 123:17 174:20 191:25 193:17 195:12 212:20 213:2,13,18 225:10,21 <b>male</b> 98:7 <b>manage</b> 64:18 <b>management</b> 42:5 44:9 66:11 81:18 82:6 86:21 87:7 88:24 89:11 149:24 152:12 162:5,17 202:13 216:10,12,15 217:5 218:2 <b>managing</b> 50:23 67:15 <b>mandate</b> 146:9,17,19,20 <b>mandated</b> 146:11 <b>manner</b> 9:17 43:8 44:3,18 <b>mantra</b> 73:16 <b>manual</b> 185:23 186:13,16 190:16 <b>map</b> 101:20 102:22,23 103:3,8,10 104:18 105:16,25 106:5,14,21 107:21 108:3,7,9,10,14,16 109:9,15,18,22,24 110:4,19,22
---	--



111:8,24 112:5,13,16,19 114:6	170:6 174:24 176:3 177:12
116:11,16,20 120:9,13,20	198:24 230:5
124:19 125:13 145:23 146:25	<b>mechanisms</b> 42:4 167:9 170:23
<b>mapmybroadband.dps.ny.gov</b>	203:2
108:11	<b>media</b> 49:20
<b>mapping</b> 101:6 103:6 104:12	<b>median</b> 104:4 133:5,16
105:12,22 109:12,13,22 110:2	<b>meet</b> 44:11 154:8 168:15,21,21
118:14,24 123:24 127:19	169:4,17 174:15 203:6,10
128:20 141:3 145:17	204:22 213:13 229:5
<b>maps</b> 117:7,15,17,19,20	<b>meeting</b> 1:1,4 2:1,2 3:1 4:1 5:1
<b>March</b> 4:8 16:9,10 38:11 43:15	6:1 7:1 8:1 9:1 10:1 11:1
43:15 45:3,4,11,11 123:25	12:1 13:1 14:1 15:1 16:1 17:1
<b>mark</b> 30:18	18:1 19:1 20:1 21:1 22:1 23:1
<b>marked</b> 185:17 191:13	24:1 25:1 26:1 27:1 28:1 29:1
<b>market</b> 27:7 210:5 229:4,6	30:1 31:1 32:1 33:1 34:1 35:1
<b>marketplace</b> 93:7 95:22 96:14	36:1 37:1 38:1 39:1 40:1 41:1
<b>markets</b> 209:17,20 210:17	42:1 43:1 44:1 45:1 46:1 47:1
<b>marking</b> 150:14	48:1 49:1 50:1 51:1 52:1 53:1
<b>Mary</b> 201:17 218:15	54:1 55:1 56:1 57:1 58:1 59:1
<b>match</b> 46:19,24	60:1 61:1 62:1 63:1 64:1 65:1
<b>matches</b> 159:4	66:1 67:1 68:1 69:1 70:1 71:1
<b>matching</b> 42:2	72:1 73:1 74:1 75:1 76:1 77:1
<b>material</b> 49:4 165:2	78:1 79:1 80:1 81:1 82:1 83:1
<b>math</b> 61:21 75:23	84:1 85:1 86:1 87:1 88:1 89:1
<b>matter</b> 25:14 82:9 165:2 219:23	90:1 91:1 92:1 93:1 94:1 95:1
226:9	96:1 97:1 98:1 99:1 100:1
<b>matters</b> 160:9	101:1 102:1 103:1 104:1 105:1
<b>mature</b> 141:18	106:1 107:1 108:1 109:1 110:1
<b>maximum</b> 45:25 49:17 111:18	111:1 112:1 113:1 114:1 115:1
<b>mean</b> 24:10 32:13 52:5 87:21	116:1 117:1,21 118:1 119:1
123:23 134:7 137:3 143:4	120:1 121:1 122:1 123:1 124:1
158:3 178:16 181:9 197:10	125:1 126:1 127:1 128:1 129:1
200:6,21 229:9	130:1 131:1 132:1 133:1 134:1
<b>meaning</b> 30:5 45:17 87:18 138:4	135:1 136:1 137:1 138:1 139:1
164:15	140:1 141:1 142:1 143:1 144:1
<b>meaningful</b> 33:21 55:19 84:13	145:1 146:1 147:1 148:1 149:1
196:11	150:1 151:1 152:1 153:1 154:1
<b>means</b> 120:17 123:16 126:5	155:1 156:1 157:1 158:1 159:1
192:24 194:8 195:25 211:17,21	159:10 160:1 161:1 162:1
<b>meant</b> 118:12	163:1 164:1 165:1 166:1 167:1
<b>measure</b> 68:8 150:8,12 151:13	168:1 169:1 170:1 171:1 172:1
152:12 153:24 154:2 167:10	173:1 174:1 175:1 176:1 177:1
175:13 176:4 202:11	178:1 179:1 180:1 181:1 182:1
<b>measures</b> 83:3,6 84:12 149:8,16	183:1 184:1 185:1 186:1 187:1
149:17 156:5 163:21 166:6,20	188:1 189:1 190:1 191:1 192:1
166:21 167:3,5 198:9 202:19	193:1 194:1 195:1 196:1 197:1
<b>measuring</b> 176:13	198:1 199:1 200:1 201:1 202:1
<b>mechanic</b> 98:11,11	203:1 204:1 205:1 206:1 207:1
<b>mechanics</b> 95:6,7	207:18 208:1 209:1 210:1
<b>mechanism</b> 6:4 54:19 78:8 125:10	211:1 212:1 213:1 214:1 215:1

216:1 217:1 218:1 219:1 220:1	72:9,13,19,21,22,23 73:5 74:4
221:1,11 222:1 223:1 224:1	76:19 77:13,20 78:3,17 186:15
225:1 226:1 227:1 228:1 229:1	203:15 204:4,24
230:1 231:1 232:1,7 233:1	<b>mind</b> 13:23 22:22 172:24 193:8
<b>meetings</b> 53:16 84:21 85:6 86:19	216:2 223:14
<b>megawatt</b> 209:20	<b>mindful</b> 13:7 56:6 192:23 193:14
<b>megawatts</b> 209:22	<b>minds</b> 98:10 212:17
<b>members</b> 85:10 98:16	<b>minimizing</b> 45:25 150:10
<b>Memorandum</b> 89:12	<b>minimum</b> 153:25 154:9 155:18
<b>mention</b> 11:15 22:20 124:22	168:15 185:11
130:18 143:15	<b>minor</b> 3:20 203:12
<b>mentioned</b> 21:22 52:14 62:15	<b>minute</b> 4:14 148:24 180:17
91:8 92:15 97:4,24 99:4 109:3	206:22
142:20 156:10 163:4	<b>minutes</b> 3:22 80:3 151:20,21,22
<b>mentioning</b> 19:23	206:18,18,19,22,24
<b>mentoring</b> 59:3,12	<b>mismarked</b> 150:20
<b>mentors</b> 97:16	<b>mismarks</b> 150:13
<b>menu</b> 111:20	<b>MISO</b> 27:8
<b>merely</b> 229:6	<b>misread</b> 161:10
<b>merger</b> 3:12,17 6:22,25 7:10,17	<b>missed</b> 81:17,18
8:11,18,25 10:4,10 28:15 34:2	<b>missing</b> 17:8 129:23
36:12	<b>mission</b> 210:9,20 211:21
<b>mergers</b> 10:14 134:10 136:21	<b>mitigate</b> 106:25 185:15
<b>mesh</b> 19:16	<b>mitigated</b> 186:11 187:22
<b>message</b> 18:17	<b>mitigation</b> 24:20
<b>messaging</b> 81:21,23	<b>mix</b> 80:25
<b>met</b> 41:22 167:23 169:9 190:11	<b>mixed</b> 138:18
203:9	<b>mobile</b> 187:16,25 188:4,9 190:17
<b>meter</b> 167:4 169:19,19	<b>mobiles</b> 187:15
<b>meters</b> 169:22 222:23	<b>model</b> 145:10
<b>methane</b> 159:15	<b>moderate</b> 31:19 81:25
<b>methodology</b> 109:14	<b>modest</b> 31:13
<b>methods</b> 170:11	<b>modifications</b> 40:23
<b>metric</b> 7:11 102:18 168:15	<b>modified</b> 82:23
169:16 172:12	<b>modify</b> 203:19
<b>metrics</b> 5:23,24 163:18,25	<b>Mohawk</b> 38:4
167:11 168:2 169:13 172:24	<b>moment</b> 58:25 107:22 158:24
174:19 217:25	<b>momentarily</b> 108:21
<b>mi</b> 211:20	<b>money</b> 24:23 26:7 58:3 68:15
<b>middle</b> 65:22,22 129:10 132:22	69:22 72:9 73:14 76:20,21
139:17	77:17 86:24 138:23,23 139:4
<b>migrate</b> 139:12 181:19	141:13 142:14,14,15,17 217:20
<b>migration</b> 153:11	218:7,7 223:8 229:25 230:2,3
<b>Mike</b> 101:18 107:23,24	<b>monies</b> 43:17,24 55:25 68:11
<b>miles</b> 5:21 104:21 126:20 136:8	71:13 122:14
145:8	<b>monitor</b> 50:2,6 171:6 174:15
<b>million</b> 5:5 7:15 38:22 39:5,11	<b>monitored</b> 197:21
39:15 40:13 43:2,13 44:17	<b>monitoring</b> 106:8 170:25
45:5,6,8,16,20,22 48:15,16,22	<b>monopoly</b> 139:5
50:19 57:25 67:12 68:8 70:19	<b>month</b> 4:22 33:15 82:6 87:2

91:15 172:23 173:4  
**month's** 173:3  
**monthly** 1:1,4 2:1 3:1 4:1 5:1  
 6:1 7:1 8:1 9:1 10:1 11:1  
 12:1 13:1 14:1 15:1 16:1 17:1  
 18:1 19:1 20:1 21:1 22:1 23:1  
 24:1 25:1 26:1 27:1 28:1 29:1  
 30:1 31:1 32:1 33:1 34:1 35:1  
 36:1 37:1 38:1 39:1 40:1 41:1  
 42:1 43:1 44:1 45:1 46:1 47:1  
 48:1 49:1 50:1,10 51:1 52:1  
 53:1 54:1 55:1 56:1 57:1 58:1  
 59:1 60:1 61:1 62:1 63:1 64:1  
 65:1 66:1 67:1 68:1 69:1 70:1  
 71:1 72:1 73:1 74:1 75:1 76:1  
 77:1 78:1 79:1 80:1 81:1 82:1  
 83:1 84:1 85:1 86:1 87:1 88:1  
 89:1 90:1 91:1 92:1 93:1 94:1  
 95:1 96:1 97:1 98:1 99:1  
 100:1 101:1 102:1 103:1 104:1  
 105:1 106:1 107:1 108:1 109:1  
 110:1 111:1 112:1 113:1 114:1  
 115:1 116:1 117:1 118:1 119:1  
 120:1 121:1 122:1 123:1 124:1  
 125:1 126:1 127:1 128:1 129:1  
 130:1 131:1 132:1 133:1 134:1  
 135:1 136:1 137:1 138:1 139:1  
 140:1 141:1 142:1 143:1 144:1  
 145:1 146:1 147:1 148:1 149:1  
 150:1 151:1 152:1 153:1 154:1  
 155:1 156:1 157:1 158:1 159:1  
 160:1 161:1 162:1 163:1 164:1  
 165:1 166:1 167:1 168:1 169:1  
 170:1 171:1 172:1 173:1 174:1  
 175:1 176:1 177:1 178:1 179:1  
 180:1 181:1 182:1 183:1 184:1  
 185:1 186:1 187:1 188:1 189:1  
 190:1 191:1 192:1 193:1 194:1  
 195:1 196:1 197:1 198:1 199:1  
 200:1 201:1 202:1,2 203:1  
 204:1 205:1 206:1 207:1 208:1  
 209:1 210:1 211:1 212:1 213:1  
 214:1 215:1 216:1 217:1 218:1  
 219:1 220:1 221:1 222:1 223:1  
 224:1 225:1 226:1 227:1 228:1  
 229:1 230:1 231:1 232:1 233:1  
**months** 31:10 67:4 89:18 156:22  
 172:20 173:6 205:24 206:2  
**moot** 8:16 10:7 11:6  
**morale** 81:8

**moratorium** 38:14,17,22 39:15  
 74:13 170:16  
**morning** 2:4,20,21 3:14 20:6  
 37:11  
**morphed** 220:15  
**move** 24:4 33:18 37:5 38:10  
 54:10 67:20 69:6 74:8 94:3  
 95:16 112:4 132:5 134:13  
 164:18 165:22 176:5 207:17  
 219:6 223:15  
**moved** 10:10  
**moving** 2:10 91:25 98:8 184:6  
**multiple** 41:5 57:19 75:22 87:2  
 135:18 136:12 167:16 173:2  
 219:24  
**multiyear** 95:12  
**municipal** 41:16 43:5,5 198:20  
**municipalities** 43:20 59:22  
 61:18 115:16 142:9 193:3,11  
 193:14 199:13,16 200:18  
**municipality** 49:11 187:13  
 197:24 198:6  
**municipally** 197:14 199:17,22  
**mysterious** 229:3

---

**N**


---

**N.E.S.C** 185:11  
**N.R.A** 168:18,25 169:8,10  
**N.R.A.s** 174:22  
**name** 2:11 101:14 149:12 233:10  
**Napoli** 113:7  
**narrowly** 88:14  
**Nat** 40:12  
**nation** 90:4  
**National** 38:5,8 40:6,9,12,15,17  
 50:12,20,21 55:6 162:18  
 185:10 188:6 203:8 221:17  
 222:16  
**nationwide** 131:4  
**natural** 3:11,18 26:12 158:12  
 159:21 160:16 165:4 166:5  
 167:23 168:4 210:15  
**nature** 68:24 199:21  
**navigate** 119:20,22  
**near** 139:19,20 172:16  
**nearly** 67:4 141:22  
**necessarily** 125:16 133:4 178:9  
 178:12 180:9 220:17 223:2  
**necessary** 4:2 49:5,17 74:4  
 106:10 116:21 118:20 123:8

182:20 187:14 230:3  
**necessitated** 155:8  
**need** 10:22 13:10 15:14 18:8,22  
 24:24 26:6 27:21 28:6 44:16  
 51:7 53:11 54:6 56:2 60:3  
 65:2 68:20 69:23 70:2 74:7  
 81:22 87:7 96:11,17 106:17  
 107:2 110:3 114:8 121:13  
 123:19 126:11 128:5,16 130:8  
 139:3 140:22 143:8 160:4  
 161:20 164:16 165:5 182:13  
 192:2 202:19 209:7,10 210:3  
 211:13 214:9,25 215:4,4,5,5,7  
 215:7 220:21,22 222:4,18  
 223:5,7,21 225:11 226:22  
 228:17 229:17  
**needed** 51:5 56:22 76:22 87:14  
 112:15 175:7  
**needing** 23:23 130:18 194:6  
**needle** 134:13  
**needs** 25:6 52:8,9 81:4 93:24  
 96:15,21 128:25 136:11,23  
 140:21 209:10 211:22 214:8,25  
 221:6 226:3,4,4  
**negative** 171:18 177:12,23  
 178:12 198:11 203:6,14 204:3  
 204:23  
**negatively** 153:6  
**negotiated** 5:19  
**negotiations** 4:6 58:14 73:25  
**neighborhood** 175:2 221:10  
**neither** 13:23  
**NERC** 209:9  
**net** 7:18 63:23 66:15  
**network** 127:23,23 205:6  
**networks** 139:12 205:10  
**neutral** 15:8  
**never** 67:17 139:18 198:25 210:2  
 217:21  
**nevertheless** 92:8  
**new** 1:1,2,9 2:1 3:1 4:1 5:1 6:1  
 6:15 7:1,14 8:1 9:1 10:1 11:1  
 12:1,2 13:1 14:1 15:1 16:1  
 17:1 18:1,6,15 19:1 20:1 21:1  
 22:1 23:1 24:1 25:1 26:1 27:1  
 28:1 29:1 30:1 31:1 32:1 33:1  
 34:1 35:1 36:1 37:1,25 38:1  
 39:1 40:1 41:1,9,10,13,14,16  
 41:18 42:1,11 43:1 44:1 45:1  
 46:1,21 47:1 48:1 49:1 50:1,3

51:1 52:1 53:1 54:1 55:1 56:1  
 57:1 58:1 59:1 60:1 61:1 62:1  
 63:1 64:1 65:1,6 66:1 67:1,11  
 68:1 69:1,20 70:1 71:1 72:1  
 73:1,3,7,9,13,18 74:1 75:1  
 76:1 77:1 78:1 79:1 80:1 81:1  
 82:1,2,5,9,13 83:1,11 84:1,3  
 85:1,24 86:1 87:1 88:1 89:1  
 90:1 91:1 92:1 93:1 94:1 95:1  
 96:1,6 97:1 98:1 99:1 100:1  
 101:1 102:1,4 103:1,8,18,21  
 103:24 104:1,14,19,25 105:1  
 106:1,5,6,15 107:1 108:1,8  
 109:1,13 110:1 111:1 112:1  
 113:1 114:1,23 115:1,13 116:1  
 117:1,9,19 118:1,21,23 119:1  
 120:1 121:1 122:1 123:1 124:1  
 125:1 126:1 127:1,20 128:1  
 129:1 130:1 131:1 132:1 133:1  
 134:1 135:1 136:1 137:1 138:1  
 139:1,15 140:1 141:1 142:1,22  
 143:1 144:1 145:1 146:1 147:1  
 148:1 149:1 150:1 151:1 152:1  
 153:1 154:1 155:1 156:1 157:1  
 158:1 159:1 160:1,11,12,22  
 161:1 162:1 163:1 164:1 165:1  
 166:1,5 167:1 168:1,9,19  
 169:1 170:1,20 171:1,5 172:1  
 173:1 174:1 175:1 176:1 177:1  
 178:1 179:1 180:1 181:1 182:1  
 183:1 184:1 185:1 186:1 187:1  
 187:17,18 188:1 189:1 190:1  
 190:10 191:1,11 192:1 193:1  
 194:1,3,5 195:1 196:1 197:1  
 198:1 199:1,17 200:1 201:1,20  
 202:1 203:1 204:1 205:1 206:1  
 207:1 208:1 209:1,19 210:1,9  
 210:13,18,22 211:1 212:1,7  
 213:1 214:1,18 215:1 216:1  
 217:1 218:1 219:1 220:1 221:1  
 222:1 223:1,6 224:1 225:1  
 226:1 227:1 228:1,9 229:1,18  
 230:1 231:1 232:1 233:1,2  
**newly** 47:4 101:21 108:19 200:18  
**news** 196:8  
**Niagara** 38:4 187:19  
**nice** 9:22 66:24  
**nine** 220:10 227:10  
**no-call** 150:24  
**noble** 92:11

**nodding** 208:9  
**nominated** 145:20  
**non-** 39:8 152:19 154:2 155:17  
**non-compliance** 154:7  
**non-industry** 84:17  
**non-low-income** 44:25 51:19  
**non-payment** 48:5  
**non-performance** 170:22  
**non-pipe** 219:12, 14, 19, 21, 22  
 220:7, 12, 15, 20  
**non-pipes** 220:3  
**non-residential** 39:14, 18 40:10  
 44:10 51:20  
**non-standard** 106:25 122:25  
**non-traditional** 95:14  
**normally** 4:4 131:4 221:12  
**northeast** 209:19  
**Notably** 55:14  
**note** 28:13 33:2 34:6 59:25  
 61:16 62:24 69:9 86:20 92:17  
 102:13 134:8 142:20 144:9  
 191:16 208:25 210:8  
**noted** 120:12 202:21  
**notes** 49:4  
**notice** 17:15 150:18  
**notification** 150:19 152:7  
 174:24  
**notifications** 155:24  
**notifies** 109:22  
**noting** 9:25 10:8 34:9  
**November** 173:7  
**novice** 15:6  
**number** 5:19, 23 7:5 30:2 32:11  
 36:12 37:12 49:18 50:3 58:2, 2  
 72:7, 21 76:4, 24 96:3 97:18  
 114:15, 20 131:3, 13 134:20, 20  
 137:12 149:15 151:3, 4 153:5  
 153:20, 21 154:21, 22, 24 155:2  
 155:12 163:20, 22, 23 166:25  
 167:4 177:8, 17 179:23 186:21  
 188:3, 10 189:25  
**numbers** 4:14 5:3 108:25 161:2, 8  
 161:17 162:22, 24 173:18  
 177:24 196:6, 7  
**nut** 141:12  
**Nutrition** 46:22  
**NYPA** 86:4  
**NYSEG** 55:6 115:22 168:10 169:4  
 169:6, 11 203:25 204:5, 7, 13, 15  
 205:2

**NYSERDA** 84:4 86:4 214:18  
**NYSERDA's** 91:15

---

**O**


---

**O** 21:8  
**O&R** 20:24, 24 21:8  
**O.E.G.W** 122:6  
**O.N.I.M** 174:25 175:12 176:3  
**O.N.M** 198:19  
**O.T.D.A** 38:2 41:11 42:3, 14, 15  
 42:15, 21 46:6, 15, 18 47:10, 15  
 47:17 48:18 51:16 63:10 69:5  
**objected** 6:24 8:9  
**objecting** 4:17  
**objection** 8:15  
**objections** 17:15  
**obligation** 27:3 70:20, 23 174:8  
 174:16 198:2  
**obligations** 116:14 159:11  
**obliged** 78:18, 18 197:10, 11  
**observations** 143:4  
**obtaining** 114:6  
**obviously** 19:6 55:23 115:15  
 119:8 156:18 174:16 191:21  
 193:11 200:23  
**occur** 53:16, 16 71:20 154:12  
 156:2  
**occurred** 202:23  
**October** 173:7  
**odor** 151:15 153:6 155:23  
**offer** 131:8  
**offered** 131:11  
**offering** 3:24 111:19 139:11  
**offerings** 107:13 111:23 132:13  
**office** 37:25 58:9 82:5 89:12  
 101:15, 16 119:18 120:25  
 128:15 130:21 131:18 149:13  
 214:19  
**officers** 82:21  
**officials** 111:4  
**offset** 7:16 38:8 55:16  
**oh** 72:11 80:2 210:2 211:9  
 215:14  
**Ohio** 27:8 212:15  
**okay** 3:6 9:12 12:12 14:13 19:3  
 22:15 23:22 26:10 29:18 36:14  
 37:4 52:25 60:20 61:2, 3, 5, 25  
 62:14 63:8, 13 69:18 72:18  
 75:19 76:12, 13 88:17 108:7  
 120:5 122:21 125:15, 23 131:22

133:15,21 135:5 136:8 138:23 139:5 148:8,23 163:14 164:3 165:22 171:24 172:3,7,14 173:9 176:9 184:6 191:6,6,6 197:4,18 218:16 227:8 230:22 230:23 <b>old</b> 12:3 <b>once</b> 18:18 104:17 108:9 123:11 136:22 141:25 159:2 186:7 188:18 205:6 <b>one-call</b> 150:19 151:3,8,11 <b>one-half</b> 49:15 75:8,14 <b>one-time</b> 46:4 <b>one-year</b> 4:3 <b>ones</b> 26:6,17,17 161:3,4 222:25 223:24,25 230:9 <b>ongoing</b> 73:16 124:23 170:24 218:12 230:10 <b>op</b> 224:15 <b>open</b> 17:24,25 53:16 227:4 <b>opening</b> 54:7 <b>openly</b> 27:15 227:3 <b>operate</b> 155:9 <b>operating</b> 32:8 104:19 106:4 137:9 154:20 <b>operation</b> 185:12 <b>operational</b> 81:3 <b>operations</b> 80:23 83:11 84:14 170:18 <b>operator</b> 189:10 <b>operators</b> 149:19 <b>opinions</b> 139:23 <b>opportunities</b> 28:16 81:18 117:5 134:12 226:6 <b>opportunity</b> 11:8,13 13:5,17 18:2 57:15 59:7 78:24 83:7 85:3 86:15 88:15 92:20 94:25 95:13 124:13 128:2 142:21 175:11 199:16 224:14,16 226:11 <b>oppose</b> 7:2 <b>opposed</b> 14:15 <b>opposition</b> 14:16 15:3 28:17 <b>opt</b> 182:11 <b>opted</b> 4:5 <b>optional</b> 59:21 <b>options</b> 71:14,17 215:6 <b>or/and</b> 11:22 <b>Oracle</b> 41:19 <b>Orange</b> 173:17 203:8	<b>order</b> 2:5 3:15 4:12 6:21 7:17 7:22 8:15,16 11:25 12:8,8 19:4,5,8,9,18,23 20:8,13,16 20:24,25 21:4,18 23:7 37:13 38:3,7,12 40:18,19,22,25 41:4 41:4 44:11 45:2,20,23 46:4,12 46:14 47:3,7 48:2,12,23,25 49:4,8,12,16,24 50:8,12,14,18 51:17 55:8 61:20 62:10 64:9 65:3 69:14 70:2 72:6,12 75:11 75:21 77:12,22 80:18 83:4,9 84:4,19 85:12 86:13 96:18 110:2 126:25 130:10 185:6 187:16 192:23 204:17 221:22 222:8,20 228:18,19 229:21 <b>orders</b> 19:24 22:13 23:18 69:11 <b>OREIFEI</b> 174:2 <b>Oreifej</b> 149:9,11,12 156:8,15 157:8,12,19 158:17,20 162:9 165:19,20 <b>organization</b> 158:5 <b>organizationally</b> 19:20 <b>organizations</b> 82:23 86:6 <b>organize</b> 83:17 <b>organized</b> 22:6 <b>original</b> 16:9 114:15 <b>originally</b> 114:12,17,18 <b>originated</b> 16:22 <b>Ossias</b> 101:9,17 123:23 124:21 124:25 134:4,7 143:3 <b>outage</b> 174:24 175:2 <b>outages</b> 198:10 204:25 205:5 216:17 <b>outcome</b> 64:20 85:4 145:4 <b>outcomes</b> 128:21 130:11 <b>outlined</b> 85:24 87:10 <b>outlining</b> 83:12 <b>outlook</b> 209:15 <b>outreach</b> 49:19,22 81:21 83:21 83:22 95:14 107:15 119:2 129:21 155:21 170:10 <b>outside</b> 13:19 22:17 30:22 46:21 86:14,16 87:14 203:17 204:11 211:13 <b>outstanding</b> 75:5 143:14 144:20 <b>over-</b> 40:14 <b>overall</b> 25:7 90:19 96:10 110:6 141:20 150:3 161:21 163:9 170:23 185:13 188:24 205:13 207:10
---	--

**overhead** 205:11 216:14  
**overlay** 104:18  
**oversight** 86:23 88:3 159:25  
 174:10,13 192:8,15  
**overspend** 142:17  
**overview** 85:9 113:23 184:24  
**owned** 190:19 191:2 197:8,14  
 198:9 199:17,20,22 200:18  
**owner** 195:10  
**owners** 7:14 122:8 223:6  
**ownership** 187:10 200:9 222:12  
**owns** 187:14

---

**P**

---

**p.m** 1:7 80:4,5 149:3,4  
**P.R.A.s** 174:22  
**P.S.C** 27:18 53:21 108:9 145:20  
 146:14 166:20 167:7 212:4,6  
 214:18 222:2 225:17  
**P.S.C.'s** 120:6  
**page** 16:12 60:21 108:8,17,20  
 109:20,21 113:9 129:4 132:15  
 214:20 233:5  
**pages** 16:15 233:6  
**paid** 71:6 170:13  
**pain** 32:3  
**pandemic** 38:21 40:11 42:7 48:20  
 50:6,14 51:2 55:7 61:10 64:19  
 102:2 169:18 170:16  
**panels** 81:11  
**Paper** 66:10  
**paragraph** 127:17  
**paramount** 26:5 27:25 158:6  
 159:8 166:8 194:17 211:16  
 212:25 215:2  
**parent** 3:17 6:23 7:13  
**Park** 138:5  
**part** 15:23 22:8 30:13 32:22  
 33:3,4 35:17 50:13 59:2 66:24  
 86:13 98:3 105:11 106:18  
 116:6 127:17 128:3 132:15  
 139:8 144:19 154:11 167:22  
 174:13 175:24 187:7 195:19  
 196:13 204:8 207:16 227:18  
**partaking** 91:19  
**partial** 50:13  
**partic** 91:18  
**participants** 84:16  
**participate** 46:17 72:8 84:2,15  
**participated** 40:21

**participating** 49:10 53:15 137:7  
**participation** 34:13 86:3  
**participatory** 34:24  
**particular** 21:13 98:16 108:15  
 110:21 113:6 143:7 182:9  
 229:21  
**particularly** 32:4 67:4,6,16,17  
 69:4 73:12,17,25 95:5,15 98:6  
 98:6 137:8,17 138:2,3,13  
 140:5 165:6 177:18 179:24  
 183:4 194:23 207:24 216:19  
 217:17 218:2  
**parties** 4:5,12,14 5:3,19 6:24  
 8:13 13:4,11 17:16 22:14  
 32:11 194:19  
**partner** 160:14 213:25 214:3  
**partners** 6:24 27:22,23,24 95:18  
 102:24 115:12 160:13 211:12  
 215:9  
**partnership** 211:15  
**partnerships** 82:22  
**parts** 102:11 137:9 138:14  
 139:15 140:12,13 216:14  
**party** 4:22 12:22,24 15:5 53:14  
 84:5 150:17 182:23  
**pass** 78:7  
**passage** 140:17  
**passed** 123:5 143:19 226:21  
**passing** 78:3,17 138:15 140:17  
 141:24  
**passings** 141:22  
**path** 93:11  
**pause** 40:2 65:16 66:17 88:14  
 161:3 196:4 197:12,17,19  
 198:3,7,12,16 199:5 200:6,11  
 200:21  
**pay** 38:19,25 50:4 66:5 68:3  
 69:23,23,25 70:3 71:13 78:14  
 98:2 123:7 217:22  
**paying** 35:12 47:22 68:4 131:25  
**payment** 17:8 45:25 48:17 54:20  
 55:5 64:20 66:2,4 170:11,11  
**payments** 48:6,6,17 56:18  
**pays** 229:19,19  
**peers** 83:4,8  
**pen-like** 186:2  
**pending** 7:21 47:11,15,17,22  
 48:6 216:21  
**penetration** 213:17  
**people** 13:19 18:5,10 65:20

66:15,25 70:6 78:5 90:9 91:4 95:14 97:8 114:16 124:18 125:4 129:25 193:19 214:8,9 214:15 229:17	<b>personally</b> 88:3 116:9 159:7 <b>personnel</b> 152:5 <b>Persons</b> 41:18
<b>people's</b> 34:21,22 177:20	<b>perspective</b> 11:12 94:2 119:2,3 119:14 121:12 123:15 133:9 144:3,14 192:14 194:9,10 195:14 198:17 214:24 221:5
<b>percent</b> 3:20 5:17,17,18 6:5,6,6 6:7,8,10 29:15,16,17 31:25 39:13 49:15 52:16,16 63:20 64:16 75:9,15,20 103:13,14,15 103:18,22,23,25 104:8,10 109:4,5,6 110:11,16 114:19 128:6 141:22 150:20,24,24 151:3,5,7,19,20,21 153:18,19 153:21,22 168:14,15,22,23 169:7,7,9,10 186:14 188:15,16 188:22 189:3,4,15,20,21 190:7 190:25 195:5 203:15 204:6	<b>perspectives</b> 143:15 <b>Peter</b> 80:11,13 85:15 91:8 98:22 <b>petition</b> 38:4 40:7,17,19 169:12 169:15 219:24 221:10
<b>percentage</b> 5:14,16 29:10 30:16 31:11 75:24 97:8 104:5 166:22 205:12	<b>petitioner</b> 222:14 <b>petitions</b> 180:24
<b>percentages</b> 29:3,6 103:22,23 109:3 128:9,12,24 151:16,18	<b>phase</b> 44:6,7,12,15,19,24 45:21 47:6 48:4,8,10,25 49:3,9,18 50:22 52:11 53:10 54:4 56:3 56:12 60:10 61:6,7,23 62:3,10 62:19 63:5,14,25 64:7,8,8,11 64:14 65:13,16 66:16 71:12 77:19 89:25 164:24
<b>percentile</b> 129:6,10,13 132:22 133:2	<b>phased</b> 57:14 58:18,20 <b>phases</b> 57:19 92:19
<b>percentiles</b> 132:20	<b>Philip</b> 184:21,21,23 190:21,23 191:4 196:2
<b>perform</b> 177:11 204:15 224:25	<b>Philipose</b> 184:21 190:16
<b>performance</b> 16:25 149:8,15,22 150:4,6 151:22 152:13 156:2,5 159:23 162:20 163:10,18,25 165:24 166:6,7,10,17 167:10 167:15,25 168:6,23 169:4,5,6 169:10,16,24 170:3,19,21 171:14 172:12 174:9 175:4,13 176:13 177:12 183:7 184:20 198:9 200:17 201:16,21 202:2 203:2,21,22 204:18 205:9 206:9,11 208:2	<b>PHILLIPS</b> 2:7 232:2 <b>philosophy</b> 55:3 <b>PHMSA</b> 160:14,19 162:2
<b>performance-based</b> 171:10	<b>phone</b> 120:17 126:25
<b>performing</b> 204:17	<b>physical</b> 155:6
<b>performs</b> 201:25	<b>physically</b> 197:7
<b>period</b> 12:2,7 14:7 32:6 45:17 49:13 67:4 75:12 96:20 125:22 137:18 145:6 150:6 171:25 172:20 183:4 191:15 208:3	<b>pie</b> 112:7 <b>piece</b> 74:19 132:8
<b>periods</b> 45:13	<b>piecemeal</b> 59:24
<b>permanent</b> 69:21	<b>pilot</b> 189:13 190:6 195:3,4
<b>permits</b> 23:10	<b>pinpoint</b> 111:4
<b>persistent</b> 153:6	<b>pipe</b> 5:22 9:7,8 24:16,19 25:10 25:11 155:25 157:6 161:4,7 163:5
<b>person</b> 174:4	<b>pipeline</b> 149:8,14,15 150:3 153:25,25 155:18 156:4 158:6 158:9,24 159:6,13,20 160:23 161:21 162:3,5
<b>personal</b> 58:25	<b>pipelines</b> 158:10 <b>pipes</b> 165:3 <b>place</b> 26:12 28:4 73:18 91:17 94:12 145:12 159:11 163:11 170:19 199:6 225:13 233:4
	<b>placed</b> 4:24 <b>places</b> 77:17 104:22 139:14



141:9 229:25  
**placing** 152:4  
**Plains** 187:18  
**plan** 3:24 5:4 6:14 33:9 49:9  
 60:11,12,13,25 65:24 82:4  
 91:10,10,17,22 93:19 163:10  
 168:16 214:16 228:10,16,17  
**plan's** 7:16  
**planners** 115:23  
**planning** 19:9,12,17 22:5 33:23  
 87:3 213:12,15 224:6,8,8  
 228:25  
**plans** 55:12 57:7 83:11,12,17,19  
 83:23,25 84:7,11,20,22 85:3,4  
 86:18 88:11 91:25 94:9 99:8  
 99:10,11,17 152:10 225:2  
 226:10  
**play** 161:14  
**playing** 138:22 216:10  
**plays** 105:14 163:12 172:24  
**please** 2:11 3:13 80:14 101:10  
 149:10 150:8,25 151:12 152:11  
 153:23 155:20 158:25 165:8,25  
 166:15 168:3 169:23 171:13  
 184:22 185:3,20 187:15 188:12  
 189:7 190:9 201:24 205:7  
 206:8,25 214:20 215:11  
**pleased** 33:8 167:22  
**plug** 113:11  
**plus** 23:6 187:21  
**pockets** 230:5  
**point** 12:21 15:16 18:4 22:2,23  
 28:7 33:25 34:23 35:10 52:5  
 52:15 54:13 64:7 68:13 75:3,6  
 76:15 77:5 78:12 79:24 92:5,6  
 92:17 94:22,23 97:2 111:10,12  
 112:17 113:14 116:16 118:22  
 124:21 134:18 135:17 138:11  
 139:22 140:10 181:12 183:16  
 199:12,23 202:24 207:3 213:17  
**pointed** 34:24 35:4 147:6 164:25  
 217:8  
**points** 32:18 64:24 93:17 99:23  
 103:18 104:2,8,11 108:25  
 109:4,5,6 110:24 111:2,9  
 197:3 221:7  
**pole** 121:9,18 122:8 124:25  
 193:12  
**poles** 193:9,24 198:20  
**policies** 82:11,12 90:8 94:12

121:18 160:4 211:2  
**policy** 24:5 40:24 43:11 90:22  
 101:14 107:5 115:2 129:17  
 133:9 147:12 160:21 202:13  
 217:19 229:3  
**policymakers** 111:4 146:4  
**pool** 81:2 97:7  
**pools** 81:17  
**poor** 199:8  
**poorly** 204:15  
**pops** 216:4  
**populate** 108:15 110:13  
**populated** 105:18 156:19 157:4  
**populates** 110:5 111:14  
**population** 105:14 128:9 157:6  
 187:20  
**populations** 73:11 139:16  
**portends** 31:9  
**portion** 14:23 36:13 49:9 128:16  
**poses** 154:14  
**position** 15:4,7,8,11,12 48:19  
 74:3 96:10  
**Positioning** 152:2  
**positive** 7:18 24:15 60:2 152:9  
 159:18 170:2,15 191:23 192:11  
 192:18  
**positively** 173:20  
**possibility** 12:15  
**possible** 45:21 60:18 73:22  
 105:9 138:9 142:16 158:14  
 159:3 197:23  
**possibly** 58:18 120:21  
**postings** 49:20  
**potential** 5:20 8:23 41:24 57:11  
 61:6 70:4 137:22 166:12 186:6  
**potentially** 11:24 34:3 52:10  
 65:12 71:23 133:25 137:4  
 152:16 175:10 185:16  
**power** 38:4 41:12,16,19 84:3,3  
 229:18  
**powerful** 92:5  
**powers** 69:10  
**practicable** 46:2  
**practice** 31:25 198:19  
**practices** 80:10,20 82:11,12,24  
 83:14,20 84:17,22,24 85:11  
 99:13 115:2 155:8,23 162:5,6  
 175:10 199:8 202:9 208:10  
**pre-** 39:13  
**Pre-arranged** 204:25

<b>precede</b> 45:14	<b>prioritizing</b> 44:24 64:6 229:10
<b>precedent</b> 23:6	<b>priority</b> 171:3
<b>precision</b> 114:24 142:10	<b>private</b> 93:10 183:11
<b>predict</b> 71:24	<b>privilege</b> 58:25
<b>predominance</b> 110:7	<b>proactive</b> 46:15 182:15
<b>predominantly</b> 102:11 110:10	<b>proactively</b> 47:16 204:11
<b>premises</b> 169:22	<b>probably</b> 14:5 97:16 126:4
<b>prepared</b> 208:7 217:22	179:23
<b>preparing</b> 40:21 182:13 208:12	<b>problem</b> 16:17 18:6 24:21 40:5
<b>prescribed</b> 152:19 154:9	41:6 197:16 200:3 212:4 227:3
<b>prescriptive</b> 162:8 222:17	<b>problems</b> 114:2 229:19
<b>present</b> 2:11,13,16,19,23 3:2,5	<b>proc</b> 85:5
80:18 134:13	<b>proce</b> 17:25
<b>presentation</b> 9:3,13 34:11 35:20	<b>procedurally</b> 22:10
51:24 75:9 99:25 101:3,6	<b>procedure</b> 16:20
102:21 114:21 156:4,9 159:17	<b>procedures</b> 94:12 167:15
159:22 160:3,25 171:14 184:15	<b>proceeding</b> 7:21,25 8:4,24 10:15
190:13 201:11 207:13	11:22 17:25 19:13,18 22:5
<b>presentations</b> 174:17 219:5	25:2 33:23 80:18 82:8 83:5
<b>presented</b> 3:12 8:13 9:14 37:8	85:5 87:3,5,16 88:5 91:19
80:11 101:8 149:9 165:25	121:17 123:25 124:11,23 130:8
184:21 201:17 202:22	174:21 193:12 224:24 229:2
<b>presenting</b> 101:19 173:25 174:4	230:8
191:10 208:12	<b>proceedings</b> 10:24 164:23 166:18
<b>presents</b> 157:21	193:11 233:7
<b>preserve</b> 127:2	<b>process</b> 12:21 13:9 16:7 18:9
<b>President</b> 147:18	20:15,18 22:4 34:22 48:8
<b>pressure</b> 24:9 31:5,17 32:5	76:24 78:4 87:15,24 88:6,23
<b>pressures</b> 24:2	89:7,10,11,21 91:8 98:10
<b>presumably</b> 105:19	104:25 110:2 114:7,23 115:19
<b>pretty</b> 12:13 13:24 16:3 96:22	118:15 145:11,15 147:3
199:11 208:3 209:23	<b>processed</b> 48:6
<b>prevent</b> 47:9,14 163:21 202:19	<b>processes</b> 143:21 167:15
<b>prevention</b> 149:23 150:9,12	<b>produce</b> 69:14 82:18 108:3
159:15	117:17 146:11
<b>previous</b> 104:12 119:21 145:20	<b>produced</b> 105:8
<b>previously</b> 109:4 119:22	<b>product</b> 22:7 71:5 114:10 144:7
<b>price</b> 177:20	145:5 146:8,12 210:19
<b>prices</b> 104:5 129:7,10,13 130:2	<b>productivity</b> 6:10
131:11,20,21,25 132:21,23	<b>program</b> 24:16,19 30:13 37:8,14
133:3,13 169:2 178:6,8,13,21	37:17,19,21 38:6,9,11 40:9,12
179:8 209:14,16,18	40:20 42:5,13,14,16 43:8,10
<b>pricing</b> 51:6 111:23 131:2,4,5,8	43:12,19 44:8,22 45:21 46:23
131:8	47:7 49:19 50:2,17 51:9,12,13
<b>primarily</b> 128:20 155:3	56:17 57:22,23,24 59:3,19
<b>primary</b> 103:18 168:20 210:9	64:4 66:11 67:6,8,18 68:24
<b>prior</b> 20:12 28:16 61:9 74:14,15	69:21,21 70:20 72:2,8,15
172:19	77:14 78:9 95:11,12 104:15
<b>prioritized</b> 57:25 63:16 65:7	106:9,10 107:12 109:12 111:25
<b>prioritizes</b> 43:9	112:2 116:2 188:20 189:13

190:6 195:3,5 204:9,11  
**programs** 6:19 24:11,12 37:24  
 40:16 42:11,19 43:13 44:2  
 46:7,17 47:2,5 48:18 50:7  
 51:17 55:16 65:2 67:23 69:3  
 70:14 73:9 81:24 106:19 107:5  
 107:17 134:10 204:7,14  
**progress** 44:8 85:7 90:20 102:10  
 144:21 192:10  
**progressed** 4:3 58:22 82:13  
**progressive** 78:14  
**project** 4:17 23:21 41:13 141:3  
 228:20  
**projects** 206:6  
**prolonged** 183:4,5  
**promise** 180:10  
**promote** 171:9  
**promotes** 81:13  
**promoting** 107:17  
**promotional** 131:8,11  
**promptly** 151:14  
**promulgated** 23:15  
**prone** 155:25 205:10  
**prop** 21:15  
**proper** 11:3 13:7 16:20 159:24  
 214:16 216:15 223:13  
**properly** 84:12 140:16 195:15  
**properties** 138:16  
**property** 137:20 138:20 157:22  
**proportional** 43:21  
**proposal** 4:7,9,13,25 5:8 6:12  
 7:3,4,20 8:10 11:17 16:4,5,9  
 17:25 18:6,7,15,19 20:19  
 21:15,16 28:14,14,15,16,18  
 32:23 58:16  
**proposal's** 17:21  
**proposals** 6:25 18:7 169:25  
**propose** 118:16  
**proposed** 4:15 5:4 6:3 21:5  
 38:10 40:12 57:6 84:11 91:25  
**proposes** 6:22 44:5  
**proposing** 50:13 88:4 89:8  
**protect** 39:22 55:9  
**protected** 8:2 38:18,22 48:4  
**protecting** 210:15  
**protection** 6:12 7:7 34:6  
**protections** 7:5 34:5  
**prove** 141:21  
**provide** 45:23 46:18 47:11 55:15  
 60:2 62:4 68:11 82:17 83:14

89:11 104:25 106:3,20 112:2  
 112:13,15 140:17 150:18 171:3  
 174:12  
**provided** 42:15 46:7 63:23 72:17  
 129:7 132:21 166:14 167:17,19  
 196:6  
**provider** 43:6 104:10,11 111:21  
 128:23,25 130:25 140:9,10,12  
**provider's** 111:22  
**providers** 42:21 59:24 103:2  
 104:19 106:4 111:13,16 120:10  
 120:18 121:9 131:3,4,7,10,14  
 135:20 136:15 139:11  
**provides** 37:19,23 51:5,15  
 201:22  
**providing** 50:15 57:9 166:12  
 184:24 201:20  
**provision** 7:13 174:7  
**provisions** 6:25 7:20,24 8:19  
 55:12 72:4  
**proximity** 157:17  
**prudent** 93:7  
**PSEG** 41:12 61:18 189:8,12,17  
 190:3 192:12 194:24,25 195:8  
 195:10 196:5 203:9  
**public** 1:3 2:4 4:17 7:15 8:20  
 10:6 17:17 39:25 41:13 67:16  
 67:18 70:7,12 71:13 91:16  
 101:14 147:19 149:20 152:23  
 153:7 154:14 155:22 174:14  
 185:14 193:2 197:23 210:10  
**publicly** 59:5 106:12 187:9  
 225:5  
**pull** 111:20  
**PULP** 4:19 6:25 14:15,19 15:23  
 16:11  
**PULP's** 14:18  
**punting** 213:23  
**purchased** 199:14  
**purpose** 17:4 40:18 68:16 95:23  
 106:20  
**purposes** 30:21 113:16 182:21  
 200:20  
**pursuant** 46:9 57:22 101:7 125:8  
**purview** 30:23  
**push** 15:2  
**pushing** 220:16  
**put** 26:6 47:13 58:15,16 65:16  
 77:6,12 89:2 94:10 141:9  
 147:12 156:9 158:15 163:11

170:21 209:12 217:16 221:22  
229:17  
**puts** 194:3  
**putting** 24:22 53:2 76:14 86:2,8  
96:12 115:8 148:23 158:18  
219:17 223:12

---

**Q**

---

**qualified** 81:14 95:10 207:6  
**qualify** 44:21 65:20  
**quality** 95:2,23 166:8,13 167:13  
171:4,7 217:9  
**quantitatively** 89:3  
**quarter** 17:13 73:6  
**quarterly** 17:9,10 50:10  
**question** 9:6 29:19 52:12 53:7,8  
62:3 69:8 70:17 74:11 75:2,6  
75:7 90:17 94:8 95:19 99:5  
115:21 116:23 121:6 129:15  
142:12 146:19,20 162:17  
165:13 171:18 172:15 176:15  
177:13 183:3 190:16 221:16  
228:18 230:19  
**questions** 9:4 19:11 30:19 37:10  
51:25 60:9 80:12 85:13 92:4  
101:9 113:20 130:15 147:12  
156:6 158:11 162:13 165:17  
171:16 176:22,25 177:6 184:9  
184:14 190:14 191:7 201:6,10  
207:14 215:18 218:20,25 228:2  
228:7 230:14  
**quick** 32:18 33:25 68:25 90:17  
94:3 112:24  
**quicker** 141:5,8  
**quickly** 57:13 67:12 68:16 113:9  
152:3  
**quite** 85:18 114:3  
**quotes** 20:24

---

**R**

---

**R** 16:11  
**R.F.P** 87:24 88:7 89:7  
**R.O.E** 6:7  
**R.P.M** 203:4,7  
**R.P.M.s** 203:3  
**racism** 90:3  
**raise** 4:20 9:24 15:19 17:23  
34:21,21  
**raised** 15:19 35:10 76:16 144:16  
209:9

**raises** 19:11 221:6  
**raising** 19:24 86:15 124:3  
210:23  
**range** 56:16  
**rapid** 137:18  
**rapidly** 139:9  
**rare** 95:13  
**RAS** 42:18,19 43:12,12  
**rate** 3:11,19,23,24,25 4:3,14,15  
4:17 5:4,6,12,15 7:16,23 8:3  
8:5,11,18,25 9:23 10:4,11,18  
11:10,17,25 12:2,3,8,8,9  
13:21 14:12,20,20,23 15:6  
16:2 17:3,6 19:25 20:4,11,12  
20:24 21:2,4 23:5,21 24:2,9  
24:20,25 28:14,16 29:3,5,10  
29:10,11,14 31:23 33:5,13,19  
34:20 35:5,7,10 36:13 55:12  
56:4 57:7 64:22 68:3 70:4  
131:6 137:8 150:20,21,23,24  
151:6,10 152:10 153:2 163:17  
165:7 166:18,20,21,23 167:8,9  
168:16 173:11 174:11,20 176:2  
178:12 190:8 195:6 203:5  
204:8  
**rate-making** 171:10  
**ratepayer** 7:5 34:5 35:8,12  
46:10 48:13 49:9 52:19,21  
59:20 72:25 75:8 123:20  
**ratepayers** 6:4 8:2,7 35:18 41:3  
45:18,23 52:15 58:2 70:12,15  
71:18 85:25 230:4  
**ratepayers'** 86:24  
**rates** 5:11 8:5 12:9,17 24:3,9  
30:25 31:17 34:21,22 78:16  
137:10 164:13 182:21  
**ratio** 71:20  
**rational** 214:16 215:6  
**rationale** 66:13 89:16  
**raw** 108:25  
**re-arguing** 18:12  
**reach** 81:21 163:22 197:24  
**reached** 196:5  
**reaching** 49:6 97:21 107:8  
130:22  
**read** 54:17 60:12 64:9 75:10  
91:15 109:11 126:20 129:5  
137:16 156:8 161:13 207:16  
222:3  
**reading** 113:25 169:19

<b>readings</b> 167:4 169:19 186:9	122:23 125:17 126:2 147:23
<b>ready</b> 208:11	<b>recommendations</b> 36:25 41:2
<b>real</b> 31:4 32:3 77:12 94:25	44:13,15 79:6,24 82:18 96:16
96:13,13 141:11,12 142:11	100:7,25 105:11,21 125:4
210:25 212:20 217:14,16	130:10 132:4 134:22 146:10
<b>realities</b> 102:7	148:20 167:19 230:24
<b>reality</b> 102:5	<b>recommended</b> 72:2 162:4
<b>realize</b> 124:19 140:22 162:23	<b>recommending</b> 23:3 37:13
<b>really</b> 12:22,23 13:10,12,23	<b>recommends</b> 38:3,7 45:20 46:4
15:5,17,21 16:21 17:19 18:8	47:3 48:2,23 49:2,12,24 50:8
18:20 19:7,25 20:4 22:3,4,7	50:15,18 75:12
26:11,12,25 27:13,21 28:2,4	<b>reconnections</b> 64:21
52:7 54:8,13,13 55:11,19,24	<b>reconvene</b> 80:7
56:5 58:10,24 59:3,7,9 65:23	<b>record</b> 4:21,25 15:7,10,22 21:24
65:24 68:16 73:20 74:14 75:23	32:11 35:2 80:4,5 149:3,4
78:18 85:16 86:24 89:24 92:22	186:9 187:17 230:21 232:6
93:16,16 94:5 96:24 97:19	233:7
114:16 116:10 118:24 120:14	<b>record-</b> 155:3
123:3,24 126:7 131:23 143:14	<b>record-keeping</b> 155:5
143:14 144:2,5 156:8 159:9,23	<b>recorded</b> 186:11 189:6
160:2 174:22,22,25 191:16,23	<b>records</b> 7:7,8 155:6,7
192:3,6 193:13 194:2,7,10,10	<b>recover</b> 55:6,11 72:15 170:15
194:12,16,21 195:12 208:24	<b>recovered</b> 50:20 78:10,15
209:4 213:2 214:13,13 217:23	<b>recovery</b> 49:13 54:19 55:5,13
220:5 221:20 223:19 224:14,16	75:12
226:19,19 227:11	<b>recruiting</b> 81:9 94:2
<b>realm</b> 12:14	<b>recruitment</b> 81:16 82:23 93:19
<b>rear</b> 60:15	94:11
<b>reason</b> 10:12 92:7 124:7 137:6	<b>recuse</b> 219:7
168:20 179:21 181:23 199:25	<b>red</b> 186:2,19 188:6 190:4
216:18 219:13	<b>reduce</b> 43:2 81:12 206:5
<b>reasonable</b> 17:16 180:3 212:12	<b>reduced</b> 170:12
212:20	<b>reduces</b> 153:4
<b>reasonably</b> 160:20 162:2	<b>reducing</b> 48:13 170:3
<b>reasons</b> 66:14 94:21 144:19	<b>reduction</b> 6:19 24:19 37:7,14
178:8	38:9 40:20 43:8 44:22 47:18
<b>rebranded</b> 160:11	50:2 51:9 57:23 59:19 64:13
<b>rebuttal</b> 4:5	186:25 189:3,4
<b>receipt</b> 48:3	<b>reductions</b> 43:14 56:19 163:19
<b>receive</b> 57:17 99:9 129:3,10	170:8
<b>received</b> 143:16	<b>reevaluated</b> 152:21
<b>receives</b> 132:23	<b>reexamine</b> 25:20 134:22
<b>reclaimed</b> 204:9	<b>refer</b> 80:20
<b>recognition</b> 27:17 161:18	<b>reference</b> 20:23 30:20
<b>recognize</b> 44:16 87:9 117:8	<b>referenced</b> 104:23
161:6 192:15 195:8	<b>references</b> 16:14
<b>recognizes</b> 50:12 51:17	<b>referred</b> 145:11
<b>recommence</b> 80:3	<b>refine</b> 105:12 120:20
<b>recommend</b> 106:13,21,24	<b>refined</b> 113:15
<b>recommendation</b> 28:13 36:2	<b>reflect</b> 35:17 166:13 202:22

<b>reflected</b> 8:4 12:9 55:17 202:11	201:16,21 202:2 203:2,9,22
<b>reflecting</b> 144:9	204:8,21 207:20 208:19 209:9
<b>reflects</b> 35:7 81:19 151:13	211:5,16,18,24 212:24,25
<b>reg</b> 138:10	214:25 215:3 218:8 219:17
<b>regard</b> 71:12 90:21 183:7 216:9	221:4 226:12
<b>regarding</b> 6:14 20:16 41:24	<b>reliable</b> 210:12
44:20 49:6 69:8 87:3 164:12	<b>reliably</b> 211:3
170:11 172:15 180:5 202:25	<b>reliant</b> 217:9
207:4 217:5	<b>relief</b> 37:20,23,24 41:2 42:14
<b>regardless</b> 155:15 187:9	46:6 48:25 50:15 51:5,15
<b>regards</b> 185:25	55:16 56:15 57:6,9,11,17,19
<b>region</b> 209:19	61:19 64:15 72:16 181:2
<b>regs</b> 222:15,19	<b>relitigate</b> 25:20
<b>regu</b> 198:11	<b>relook</b> 220:8
<b>regular</b> 42:17 49:24 53:17 91:5	<b>remain</b> 45:8 150:22 155:17
<b>regularly</b> 116:8	205:17
<b>regulate</b> 135:20 136:14 139:24	<b>remaining</b> 3:21 46:10 48:8 49:2
<b>regulated</b> 7:19 43:4 189:10	64:17 72:24 107:3,8 129:18
195:11	<b>remains</b> 160:5 166:9 171:5
<b>regulates</b> 5:11	<b>remand</b> 12:18 14:5,6,11
<b>regulation</b> 174:10	<b>remarks</b> 109:4
<b>regulations</b> 150:3 154:2,13,15	<b>remedy</b> 198:15 199:24
155:19 162:25 171:12 221:21	<b>remember</b> 194:25
221:23,25 223:22	<b>remind</b> 29:23 158:24 191:12
<b>regulator</b> 211:22	<b>reminding</b> 33:13
<b>regulators</b> 9:15 211:18	<b>remote</b> 104:22
<b>regulatory</b> 31:18,19 159:25	<b>removals</b> 203:25
160:21,23 192:7	<b>renewable</b> 158:11 165:4 210:17
<b>reiterate</b> 67:22 147:15	<b>renewed</b> 69:10
<b>reiterated</b> 136:11 146:13	<b>Rental</b> 42:13
<b>relate</b> 33:19	<b>reopen</b> 12:19 13:3
<b>related</b> 3:11 25:7 54:21 80:9	<b>reopening</b> 18:11
86:22 102:16 105:2 131:16	<b>repair</b> 152:17 153:8 156:25
133:4,12 152:13 155:5 204:7	199:4
216:19	<b>repairable</b> 153:18
<b>relates</b> 20:14 22:9 34:2 37:6	<b>repaired</b> 152:15 153:22 156:17
67:6 86:13 93:23 192:18	156:20,22,23
<b>relating</b> 54:5 171:10	<b>repairs</b> 187:14 199:8
<b>relation</b> 32:19 67:5 77:9,19	<b>repeatedly</b> 146:25 230:2
174:21	<b>repeating</b> 33:6
<b>relationship</b> 78:14	<b>replace</b> 25:11 155:24 163:5
<b>relatively</b> 30:5 97:18	<b>replacement</b> 5:22 9:10,11 24:16
<b>release</b> 125:22 146:16 147:9	<b>replaces</b> 12:3
148:6	<b>replacing</b> 161:7
<b>released</b> 148:21	<b>report</b> 6:14 17:9,10 44:5,12
<b>relevant</b> 112:5,8 113:7 115:15	60:13,16,21,25 61:9 62:25
<b>reliabilities</b> 217:13	64:14 101:20 102:22,23 103:3
<b>reliability</b> 26:18,19 27:5,16,19	105:16 106:14,19 108:3 122:10
27:23,25 101:24 126:12 127:24	124:8,9,22 125:7,7,11,22
159:7 160:6 166:8 185:17	128:22 129:16 132:19 134:22

<p>134:24 135:4 143:5 146:22,22  147:17 148:6,21 149:9,16,17  149:20 151:14 156:5,8 159:3  164:8 165:13,18,24 167:19,22  171:15 174:24 184:9,20 201:6  201:16,22 215:18,22 216:4  218:21 219:2  <b>report's</b> 105:11  <b>reported</b> 154:10 167:14 187:22  233:4  <b>Reporter</b> 233:13  <b>reporting</b> 4:11 5:20 49:25  119:11 150:6 168:23  <b>reports</b> 39:20 50:9,11 151:16,20  153:5 166:16,19  <b>representative</b> 166:23  <b>representatives</b> 169:21  <b>representing</b> 108:25  <b>represents</b> 110:23,25 154:8  188:3,5,6,7 189:25 190:4,5  <b>request</b> 4:19 7:14 156:10  <b>requested</b> 114:13  <b>requesting</b> 40:7 169:12  <b>require</b> 18:20 42:20 66:5 179:10  224:24  <b>required</b> 7:10 17:24 18:16 20:9  21:9 66:8 83:24 91:3 94:5  101:21,23 102:14 120:8 144:4  152:17,20,21 156:16,20,21,23  185:21 186:10 187:8,12,25  188:14 196:12  <b>requirement</b> 4:11 5:21 6:9 33:8  85:21 90:23 91:12,21 124:9  156:24  <b>requirements</b> 5:20 7:11 92:8,16  94:4 112:3 119:11 154:9  190:11 221:11  <b>requires</b> 6:12 7:5 20:25 37:18  51:10 64:13 84:19 134:21  152:17 214:18 225:4,22  <b>requiring</b> 92:9 153:8  <b>requisite</b> 96:3  <b>res</b> 180:16  <b>research</b> 41:11 82:10  <b>researched</b> 85:11  <b>reservation</b> 65:4,9 66:9  <b>reserve</b> 14:24  <b>residence</b> 146:3  <b>residences</b> 130:7  <b>residential</b> 5:9 29:9,10,13</p>	<p>38:15,23 39:5,7,9,14,21 43:3  43:18 44:9 45:3 47:9 51:20  61:10,14,24 62:23 63:2,24  167:5 170:4,6 210:14  <b>resiliency</b> 26:20 160:6,24  202:19 208:19 216:2,3,6,23  217:5,17 219:17  <b>resilient</b> 81:7  <b>resolution</b> 4:21 8:13 13:11 49:6  58:15  <b>resolve</b> 28:16 38:3 48:9  <b>resolves</b> 6:21 28:14  <b>resource</b> 41:14 82:22 106:22  211:6  <b>resources</b> 203:20 204:16 210:18  227:16  <b>respect</b> 8:12 20:10 21:14 39:6  116:7 159:23 225:7  <b>respected</b> 90:10  <b>respective</b> 152:10  <b>respond</b> 19:22 86:15 88:15  151:14,19,20,21 152:4  <b>responded</b> 151:17 155:23  <b>response</b> 32:21 99:4 149:23  151:13,23 179:15  <b>responses</b> 167:16  <b>responsibility</b> 133:8 134:6  179:13 180:14 181:18 187:13  192:25 193:15 198:12 211:4,11  <b>responsible</b> 121:2 162:7 180:14  193:19,19 212:12  <b>responsibly</b> 160:20 161:25 211:3  <b>rest</b> 175:14 196:12  <b>restructurings</b> 136:19  <b>result</b> 8:24 78:5 96:16 126:18  126:23 131:3 143:24 149:18  153:2 167:18 203:13 205:15  230:11  <b>resulted</b> 11:22 32:23 168:24  <b>resulting</b> 8:3 42:6 81:17 151:5  169:10  <b>results</b> 10:5 98:18 105:9 113:18  118:24 126:19 149:21,25  207:23  <b>resume</b> 39:17  <b>resumed</b> 169:18  <b>retail</b> 29:23 30:13  <b>retain</b> 193:16  <b>retained</b> 86:17  <b>retention</b> 81:8 93:20 94:9,11,13</p>
---	---

<b>retire</b> 94:24	219:17
<b>Retired</b> 41:17	<b>risks</b> 154:17
<b>retirement</b> 9:8	<b>road</b> 12:10 18:5 69:20 194:14
<b>return</b> 6:6,8 80:2	214:23
<b>reveal</b> 111:10	<b>robotics</b> 97:13
<b>reveals</b> 103:20	<b>robust</b> 83:21 92:19 99:8,12
<b>revenue</b> 4:13 5:20,24 6:9 8:23	158:14
73:11 87:18 152:9 170:2,15	<b>Rochelle</b> 187:18
171:19 199:15 203:6,14 204:3	<b>Rochester</b> 168:11 187:19 188:7
204:23	<b>Rockland</b> 173:17 203:9
<b>revenues</b> 11:24 12:5 54:20 55:6	<b>role</b> 14:18 15:23 27:17 87:10,14
55:11	105:14 120:6 163:13 191:11
<b>reverted</b> 180:5	<b>roles</b> 59:12 97:4 144:12
<b>review</b> 58:9,10 80:9,19 94:13	<b>roll</b> 2:10
105:23 151:9 179:5 192:13	<b>rolling</b> 91:13
205:15 225:3	<b>rollout</b> 193:7
<b>reviewing</b> 8:17 86:18 202:15	<b>room</b> 26:12,25 31:22 212:19
<b>reviews</b> 201:23	213:24 226:5
<b>revised</b> 4:13 16:12 18:7 50:9	<b>RORY</b> 1:12
<b>revision</b> 17:11	<b>Rosenthal</b> 20:6 22:22,25 29:25
<b>revisions</b> 16:23 17:13,22	30:2 33:12 57:20 68:12,20
<b>Revs</b> 210:21	69:12,17 70:5,11,22 71:2,7
<b>RG&amp;E</b> 55:6 168:12 169:4,11	74:10,21 76:15 77:8 134:17
204:19,22	140:23 226:17 228:21
<b>RG&amp;E's</b> 169:8	<b>roughly</b> 31:24,24 186:14,22
<b>Rick</b> 107:24	<b>round</b> 200:13
<b>Rider</b> 37:8,11 52:17,23 53:7,12	<b>rowing</b> 119:15
55:4 56:11 60:15 61:2,4,8	<b>Rowley</b> 107:24
62:11,21 63:7,12 68:6 71:17	<b>Rule</b> 222:2
71:24 72:11,16,20 75:19 76:4	<b>rural</b> 102:11 105:17 114:2
76:8,11 177:25 178:4,16 179:5	128:10 136:5 137:9 140:5
179:9 180:18 181:7,10,24	142:21 143:2 157:5
183:13 184:3	<b>Russell</b> 107:23
<b>right</b> 2:3 14:13,24 21:25 24:14	
27:8,11 30:11 55:11 60:23,23	<hr/> <b>S</b> <hr/>
64:7 70:11 72:18 76:10 80:6	<b>S</b> 1:15
100:5 101:4 108:18,24 110:15	<b>sadly</b> 24:10
111:14 113:11 123:8,10 124:6	<b>safe</b> 32:8 52:18 159:2 174:7,12
124:24 125:23 132:7,17 139:17	187:12 197:10 210:11
140:3,19 143:10 146:23 148:20	<b>safeguard</b> 185:14
149:5 164:19 173:25 181:16,17	<b>safeguards</b> 7:6 34:5
183:18,20 184:17 197:20,25	<b>safer</b> 159:21
198:23 200:10 201:2,3,13	<b>safety</b> 5:23 24:11,12,22 25:8,12
204:12 208:5 215:13,19,23	25:22 63:23 66:15 149:8,14,15
219:3 225:19 229:24 230:10	150:3 152:23,25 154:2,14
<b>ring</b> 7:9	155:18 156:4 158:6,9,24,24
<b>rise</b> 163:24	159:6,9,13,20,23 160:7,23
<b>rising</b> 169:2	161:21 162:3,5 164:15,17
<b>risk</b> 24:22 51:8 154:13,16	165:8 166:7 184:20,25 185:4,6
155:13,13 163:6 170:22 211:7	185:10,13,16,18 187:7 188:14



189:9 190:12 191:13,25 192:6 193:16 194:9,14,17 195:9 <b>Saint</b> 168:12 <b>SAM</b> 104:15 <b>Sandy</b> 225:17 <b>satellite</b> 137:24 139:19 <b>satisfaction</b> 166:21 167:8 168:14,22 169:3 179:3 <b>satisfied</b> 179:7 <b>save</b> 25:24 <b>saw</b> 40:12 174:20 186:24 188:24 193:22 <b>saying</b> 28:19 54:7 59:4 76:17 96:17 97:17 98:24 126:2 140:23 146:7 177:14 180:20 194:12 214:5 219:14 <b>Sayre</b> 3:13,14 9:6,10,18 11:21 14:2,10,19 16:8 19:2 21:11,20 25:17 28:9,25 29:5,12 34:4,11 34:14 35:20,22 36:25 37:3 <b>says</b> 13:20 60:22 63:4 65:15 75:11 127:20 129:5 197:9 198:25 210:11 <b>scaled</b> 161:5 <b>scans</b> 188:10 <b>scared</b> 213:10 214:6 <b>schedule</b> 203:19 <b>school</b> 112:9,21 <b>schools</b> 127:21 <b>Schuler</b> 107:24 <b>scope</b> 87:11 103:4 <b>screen</b> 111:15 112:4 <b>screenshots</b> 127:2,4 <b>Scripture</b> 107:23 <b>scroll</b> 109:10 <b>Scrolling</b> 108:21 <b>Sean</b> 107:24 <b>search</b> 108:13 112:23 113:12 <b>searching</b> 112:6 <b>season</b> 153:10 208:20 218:16 <b>seasonal</b> 137:20 138:15,20 211:7 <b>second</b> 3:18 5:13 16:12 17:7 23:9,19 37:5 46:7 69:19 106:13 107:9 131:23 132:15 151:13 172:15 200:13 204:10 <b>secondly</b> 93:22 <b>seconds</b> 166:23 <b>Secretary</b> 2:5,7 231:24 232:2 <b>Secretary's</b> 125:13 <b>section</b> 7:2 23:11,12 147:20	149:14 186:18 <b>sections</b> 186:19 <b>secure</b> 96:2,10 180:3 210:12 <b>securing</b> 71:15 <b>see</b> 10:13 16:2 18:10,10,12 22:12 26:15 31:4 33:8,18 74:16 96:19 102:21 109:3,9,20 110:5,8,15,16,17,22 111:9,15 112:7 113:2 133:17,24 138:3 147:5 159:24 172:23 180:13 188:8 191:21 192:11,18 200:17 207:23 208:9,24 213:5 214:21 219:16,18 222:14 223:21 226:14 <b>seeing</b> 19:21 23:18 120:15 173:18 208:13 213:17 <b>seek</b> 9:15 <b>seeking</b> 89:22 170:14 <b>seeks</b> 210:16 <b>seen</b> 25:23 62:25 90:2 99:17 151:11 155:14 173:13,16 207:2 216:11 <b>segment</b> 222:4 <b>select</b> 88:5 89:7,8,9 <b>selected</b> 84:9 87:24 187:20 <b>selection</b> 86:21 87:22 88:13,23 89:20 <b>self-certification</b> 42:4 49:22 <b>self-certify</b> 46:25 <b>sell</b> 71:5 <b>Senate</b> 144:12 147:18 <b>senator</b> 144:16 <b>senators</b> 145:13 <b>sense</b> 10:9,14,16 13:8 14:14 18:25 26:9 54:25 162:19 213:13 221:21 222:16 <b>Sensible</b> 90:8 <b>sent</b> 125:12,13 <b>sentence</b> 75:10 <b>separate</b> 121:17 130:8 207:5 <b>separately</b> 8:17 29:4 172:5 <b>September</b> 40:3,6 41:7 60:19,22 60:24 62:17 173:7 <b>serious</b> 96:12 <b>seriously</b> 182:7 <b>serve</b> 6:18 93:10 106:14 111:17 136:7 137:11,23 141:13,14 142:11,11 <b>served</b> 102:18 103:13,19,23 104:6,9,11 105:6 109:2,5
---	---

110:10,11,16,20,24 111:15	55:15 70:19 71:10 72:24
117:22 128:6,11,23,25 129:18	166:11 170:22
137:2 138:25 140:13,14 141:12	<b>shareholders</b> 48:24 57:4 68:2
<b>serves</b> 92:11 205:12	71:10,18 166:13
<b>service</b> 1:3 2:5 5:22 16:25	<b>sharing</b> 6:3 42:2 93:2 99:13
38:20 39:17,20,25 43:6 46:2	158:19
47:20,23,24 63:21 65:13 70:7	<b>shift</b> 203:20 204:16
70:13 80:24 81:20 101:25	<b>shifting</b> 208:21
102:3,9,25 103:19 104:2,19	<b>shifts</b> 211:7
106:4 109:9,14 110:7,12	<b>shirk</b> 211:4
111:11 120:10,17 128:18 129:3	<b>shoot</b> 60:19
130:23 136:2,7,21 137:10,17	<b>shop</b> 225:22,24,24
139:5,11,19 140:20 142:2	<b>short</b> 92:5 101:22 108:4 109:16
146:6 147:19 149:20 154:20	121:24 149:22 209:15
165:24 166:7,9,10,14,15,16,19	<b>shorter</b> 206:19
167:6,13,15,24 168:2 169:24	<b>shortfall</b> 45:9 115:3
170:4,10,19 171:3,4,7,11,12	<b>shortly</b> 19:5
171:14 173:16,17 174:7,12,14	<b>show</b> 68:14 108:16 111:13 112:18
179:24 181:22 187:24 194:4	141:23 159:17 162:18 186:19
196:7 204:21 210:10,19 218:5	<b>showed</b> 154:25
<b>serviceable</b> 106:11	<b>showing</b> 206:11 220:17 229:2
<b>serviced</b> 146:3	<b>shown</b> 151:12 155:15 207:10,24
<b>services</b> 38:15,24 41:16 42:21	<b>shows</b> 59:8 61:13 72:12 141:6
47:14 51:8 111:23 127:22	145:24 151:10 154:22 155:11
210:13	155:14 160:25 186:16,18 205:8
<b>session</b> 2:4 19:23 26:15,20	206:9 208:4 227:14 229:8
33:18,18 77:21 89:22 164:10	<b>shutoffs</b> 170:10
169:14 208:23	<b>side</b> 10:19 16:22 108:24 110:15
<b>sessions</b> 42:9	111:14 121:4,4 177:21 190:20
<b>set</b> 12:16 13:21 20:17 117:23	190:21,22 191:3
153:3	<b>sidelined</b> 25:22
<b>setting</b> 122:23	<b>sig</b> 154:22
<b>settle</b> 10:17	<b>sight</b> 117:9 123:18
<b>settled</b> 3:20 8:3 14:5	<b>sign</b> 216:22
<b>settlement</b> 4:6,16,18 9:13 11:22	<b>signal</b> 186:7 210:6
14:23 28:18 164:17	<b>signature</b> 16:11
<b>seven</b> 151:5	<b>signed</b> 38:13 140:11 226:21
<b>seventh</b> 184:18	<b>significant</b> 30:14,17 34:20 49:3
<b>severe</b> 39:2 156:16,16	50:3 70:4 77:4 102:9 123:22
<b>severity</b> 156:14	151:5 170:21 173:19 186:24,24
<b>shade</b> 110:9	191:14,23 209:9,13
<b>shades</b> 110:10,12	<b>significantly</b> 35:5 129:11
<b>shadow</b> 190:4,5	132:23 154:23 209:17
<b>shallower</b> 81:17	<b>signing</b> 66:4
<b>shape</b> 115:2	<b>silo</b> 19:21 225:21
<b>share</b> 43:21 55:2 77:11 82:25	<b>similar</b> 17:5 50:10 59:21 113:12
83:19 85:6 115:23 116:3	204:15 207:12
190:25	<b>similarly</b> 25:19 82:3
<b>shared</b> 75:10	<b>simple</b> 37:17 51:9
<b>shareholder</b> 48:21 49:4 52:20	<b>simply</b> 113:10

<b>sincerely</b> 78:16	<b>sought</b> 42:9 147:11
<b>single</b> 172:21 178:17 181:11 200:11	<b>sound</b> 16:4 220:5,15
<b>singular</b> 216:13	<b>source</b> 123:3 160:6
<b>sister</b> 214:2	<b>sources</b> 47:8 68:8
<b>sit</b> 15:19 117:8	<b>south</b> 180:12 182:24
<b>site</b> 223:14	<b>space</b> 160:17
<b>situation</b> 24:13 209:23	<b>spare</b> 113:8
<b>six</b> 97:16	<b>spark</b> 159:5
<b>sixth</b> 165:22	<b>speak</b> 64:25 116:8 119:21 129:17 190:24
<b>size</b> 188:11	<b>Speaker</b> 147:18
<b>skew</b> 205:13	<b>speaking</b> 126:24 213:8
<b>slide</b> 150:8,25 151:12 152:11 153:23 155:20 166:14 168:3 169:23 171:13 185:3,19 187:15 188:12 189:7 190:9 201:24 205:7 206:7,25	<b>speaks</b> 127:18
<b>slightly</b> 129:10 132:23 205:18	<b>special</b> 160:13
<b>slow</b> 137:25	<b>Specialist</b> 149:13
<b>small</b> 30:5 63:24 65:22 97:18	<b>specific</b> 17:11 20:16,23 23:11 23:20 33:19 50:17 56:17 60:16 68:15 88:25 97:22 109:19 117:9,19,20 149:22 151:17 167:12,12 174:25 175:5 190:18 222:13
<b>smaller</b> 83:25 86:3 113:2	<b>specifically</b> 20:11 33:6 45:15 74:17 119:17 121:20
<b>smarter</b> 159:20	<b>specifics</b> 21:12
<b>smartest</b> 212:17	<b>specified</b> 40:25
<b>smell</b> 158:25	<b>specifies</b> 49:8 57:25
<b>smooth</b> 214:17	<b>specify</b> 83:13
<b>soapbox</b> 227:8	<b>speed</b> 24:5 95:13 104:10 113:18 120:2
<b>social</b> 42:21 49:20	<b>speeds</b> 111:19 129:8,11,14 130:3 132:2,21,24 133:3,14
<b>soil</b> 153:13	<b>SPEICHER</b> 157:16,20,24 162:21 163:12,16 175:24
<b>solely</b> 70:14 146:2	<b>spend</b> 24:23 28:2 137:19 138:20 138:25 217:4,5 218:8 229:25
<b>solid</b> 31:17	<b>spending</b> 217:3,16
<b>solution</b> 44:25 50:13 56:25 57:4 62:5 64:13 72:4 143:2 212:20	<b>spent</b> 86:25
<b>solutions</b> 41:24	<b>spiked</b> 177:18
<b>solve</b> 215:10	<b>spikes</b> 177:7
<b>solving</b> 220:18	<b>spirit</b> 85:22
<b>somebody</b> 138:22 197:7 212:3	<b>spite</b> 90:8
<b>somewhat</b> 224:21	<b>spoke</b> 64:25 97:15 145:14
<b>son</b> 97:12	<b>spoken</b> 119:17
<b>soon</b> 24:17 31:3 52:7 53:4 60:18 116:16	<b>sponsored</b> 97:15
<b>sooner</b> 117:17 152:22	<b>spot</b> 140:3 143:4
<b>sorry</b> 80:2 122:16 163:9 181:8 184:7,18 215:14 227:8	<b>spotted</b> 16:17
<b>sort</b> 10:20 11:16 12:21 13:7,8 13:19 18:2,10 19:19,21 22:14 23:2,16 25:17,19,20 26:13,14 53:23 55:2 59:8 78:23 117:7 119:13 122:9 123:13 125:9 126:11 192:3 195:18 208:24 222:18	<b>spread</b> 75:21 87:17
	<b>spring</b> 91:10
	<b>squeeze</b> 164:16
	<b>squinting</b> 113:8

<p><b>stabilization</b> 221:10  <b>staff</b> 4:4 6:14 7:14 20:19 23:3  28:22 32:22 33:4 34:12 35:10  35:17,21 39:24 41:4,7,22  49:25 50:5 51:22,25 53:12  58:5 59:9 67:10 68:24 82:8,11  83:2 85:10,12,19 86:15,17  87:24 88:3,15 96:3 102:23  103:8 105:4 145:3 150:6 154:3  154:4,19 155:4,25 160:10  166:16 167:13,18,21 168:3  171:6 174:15 175:3 181:10  189:12 191:18 201:25 202:4  212:6 213:20 215:17 217:2  219:5 227:15,16,17 229:21  <b>staff's</b> 149:25 154:11,11  <b>staff's</b> 16:11  <b>staffing</b> 169:20  <b>staffs</b> 170:24 192:8 201:22  <b>stakeholder</b> 83:8  <b>stakeholders</b> 44:14,16,19,23  49:25 53:14 64:5,11 83:22  85:2 103:7 115:16 160:8 162:3  213:20 217:19  <b>stand</b> 39:4  <b>standalone</b> 28:6  <b>standard</b> 4:3 31:25 50:11 99:13  131:5 185:11 194:24 220:14  <b>standardization</b> 167:21  <b>standards</b> 167:24 170:20 184:20  184:25 185:5,6,8,14,18 187:8  188:14,23 189:9 190:12 191:14  195:10 199:3 221:3 225:12  <b>standpoint</b> 92:9 200:7,15  <b>stands</b> 45:19 92:6  <b>Starlink</b> 137:17 142:20,20  <b>start</b> 3:23 45:24 56:12 60:4  69:2 123:4 135:7 159:4,5  185:3 228:11  <b>started</b> 68:23 69:20 163:2  164:10 208:23  <b>starting</b> 5:6 112:17  <b>state</b> 1:2 8:8 37:23,25 38:13,16  41:9,10,10 42:12,23,25 51:15  51:16 52:20 53:22 59:19 62:7  67:25 69:2,25 82:5,10,14 90:4  90:19 91:11,11 96:6 99:16  101:25 102:4,9,11,24 103:13  103:15 104:14,20,22 105:18  106:15,22 108:9,23 109:14</p>	<p>113:2 115:14,14 116:7 119:11  121:3 122:8,12 135:19 139:10  141:22 142:14 145:10 150:5  160:3,21 164:18 166:5 168:9  169:15 170:20 171:5,9 175:14  188:4 196:12 207:5 210:10  216:14 221:2,20 228:9 233:2  <b>State's</b> 44:17 50:24 57:15 64:22  205:12 210:14 229:2  <b>stated</b> 14:22 106:20 171:19  233:5  <b>statement</b> 14:16 15:3 67:9  210:20  <b>statements</b> 14:24  <b>States</b> 136:13,13 139:24 145:21  <b>statewide</b> 40:20 43:21 50:15  59:23 104:8 108:22 112:7  192:14 201:20 205:9,17,19  206:10,13,14,17,20,20,24  <b>static</b> 146:22  <b>statistically</b> 154:5  <b>statistics</b> 108:22 112:7,8 113:7  202:22 205:14 218:4  <b>status</b> 195:25 223:2,23  <b>statute</b> 74:14,15 120:9 144:3,4  <b>statutory</b> 45:4,11,14  <b>stay</b> 26:2,24 81:6  <b>stayed</b> 186:22  <b>steady</b> 192:9  <b>steam</b> 210:12  <b>step</b> 33:17 44:16 46:12 50:25  120:12 125:6 129:24 195:22  196:18 214:17  <b>steps</b> 19:11 22:10 44:6 46:5,16  58:23 64:3  <b>stickier</b> 11:9  <b>stimulate</b> 210:16  <b>stock</b> 210:3  <b>stop</b> 210:24  <b>storm</b> 202:22 207:5,9 216:18  225:17  <b>storms</b> 202:16,25 203:12 205:16  206:4,11,12,16 207:4,6,8  208:8  <b>story</b> 160:22 196:8,18  <b>straightforward</b> 16:3  <b>strategic</b> 6:13 33:9 82:4,17,19  <b>strategies</b> 82:3 107:10 129:19  171:10  <b>strategy</b> 182:16</p>
--	--

<b>stray</b> 126:10 185:8,15 186:13,16 186:21 187:3,15,25 188:3,9 189:13,19 190:2,17,17 192:19 194:13 195:2,4 197:8,14 199:25 200:7,12	<b>success</b> 81:24 150:9
<b>stray-voltage</b> 196:11	<b>successes</b> 85:8
<b>street</b> 104:14 113:25 192:20,23 193:3 199:14	<b>successful</b> 4:7
<b>streetlight</b> 185:22 187:10,14 197:8,14 200:4	<b>successfully</b> 168:5
<b>streetlight-age</b> 198:10	<b>successive</b> 14:12
<b>streetlights</b> 187:2,2,6,9 198:20 198:23	<b>suddenly</b> 153:12
<b>strength</b> 99:10	<b>Suez</b> 25:15
<b>strengths</b> 89:13	<b>sufficiently</b> 48:24
<b>stress</b> 194:3,8	<b>suggest</b> 66:3 199:10
<b>strikes</b> 9:14 72:3	<b>suggesting</b> 88:16
<b>strong</b> 35:17 159:11 170:20 179:23	<b>suite</b> 222:25
<b>stronger</b> 90:7	<b>Sullivan</b> 37:9
<b>strongly</b> 13:15 227:12	<b>sum</b> 76:20
<b>struck</b> 128:5,13	<b>summarizes</b> 166:5
<b>structure</b> 56:15 62:4 157:21	<b>summary</b> 9:22 109:15 110:13 111:11 127:18 170:18 190:10 201:20
<b>structures</b> 91:24 157:17	<b>summer</b> 27:12 208:20 209:14,16 209:22
<b>struggling</b> 12:13 65:21 102:5	<b>Super</b> 225:16
<b>studies</b> 102:14 225:2,10	<b>supersede</b> 21:19
<b>study</b> 64:13 101:6,23 102:16 113:16 130:18 225:16	<b>supplement</b> 42:18
<b>stuff</b> 96:13 125:5 127:10	<b>supplemental</b> 43:25 46:22
<b>stunted</b> 81:16	<b>supply</b> 160:6 177:21 180:3 221:6
<b>subject</b> 82:9 83:18 84:19 189:9 195:9 203:5 225:2	<b>support</b> 15:13 42:23 58:20 59:18 59:22 65:5,9 66:14 77:21 86:16 87:4 92:16 210:23 228:8 229:18 231:13
<b>subjectively</b> 177:10	<b>supporting</b> 44:20 60:4 77:22 90:12 92:10,12 93:15 227:23 228:19,20
<b>submetering</b> 221:23,24 222:15	<b>supportive</b> 28:19 44:15,23 64:6
<b>submission</b> 106:3 120:11	<b>supposed</b> 220:7
<b>submit</b> 14:16 73:12 83:24 91:21 147:17,23 180:8 182:10	<b>surcharge</b> 49:11,12 75:12 78:15
<b>submitted</b> 40:7 82:5 91:10 104:23 202:3 219:25 221:17,18	<b>sure</b> 9:9 14:17 22:24 26:2,4,7 27:15 33:11 52:13 54:6,8 55:4 56:11 57:8 62:5 67:10 76:12 93:25 97:6 98:3 116:25 117:4 117:13 119:2,14 122:2,3 123:13,18 124:12 142:16 158:4 158:17 163:5 165:8 175:22 180:18 182:7 183:18 191:24 192:2 193:17 195:12 197:20 207:17 212:21 213:2 224:14,16 225:10,21 226:19
<b>subscribed</b> 233:10	<b>surge</b> 51:6
<b>subscribership</b> 102:16	<b>surmise</b> 194:11
<b>Subsection</b> 147:20	<b>survey</b> 108:19 113:15,17 128:15 152:21 166:20 167:8 168:14,22 169:3
<b>subsequent</b> 69:25	
<b>subsidies</b> 136:3	
<b>substantially</b> 150:4	
<b>substantive</b> 18:14 35:2 54:9 59:13	
<b>substantively</b> 22:10	
<b>subtracting</b> 61:22	
<b>succeed</b> 45:14	

**surveys** 91:23,24 187:17  
**survive** 66:9  
**suspect** 110:17  
**suspended** 27:6  
**suspending** 210:4  
**sys** 213:22  
**system** 21:7 32:8 150:19 152:2  
 158:9,13 159:8,21 160:16  
 162:5 164:19,25 168:20 171:22  
 185:22 188:11 189:10,15  
 195:10 202:8 208:18 211:5  
 216:14,23 217:2  
**systems** 205:11

---

**T**

---

**tab** 112:14  
**table** 18:3,23 31:12 54:2,3,14  
 66:7 108:24 123:14 146:20  
**tables** 61:17  
**tail** 215:10 226:12  
**take** 10:23 27:14 56:17 57:15  
 58:10,24 59:7 67:23 92:20  
 107:22 112:24 113:18 129:24  
 134:19 147:16 148:24 158:23  
 163:23 175:19 178:2 182:6  
 191:16 202:10 208:25 210:3,8  
 222:3 224:15  
**taken** 83:3 134:8  
**takers** 30:12,14  
**takes** 207:21  
**talent** 126:19  
**talk** 18:23 21:13 27:15 29:2  
 139:3 158:24 212:18 226:13  
**talked** 193:7  
**talking** 9:7 10:21 88:20 126:9  
 132:12 145:17  
**talks** 19:6  
**Tammy** 225:24  
**tank** 66:7  
**tapping** 117:6  
**target** 75:19 106:15 168:16,21  
 168:22 169:5,7,9 204:2,22  
**targeted** 46:20,20 61:19 63:9,11  
 106:13 134:8 168:6  
**targeting** 190:7 195:6  
**targets** 43:13 83:13 84:23 153:3  
 169:17 203:3,4,7,10,11  
**tariff** 49:11 221:24 222:2,15,19  
 223:22  
**tariffs** 180:6

**tasked** 43:23  
**tax** 48:17 73:10,19 142:14,14  
**taxed** 73:15  
**taxes** 73:5,11 78:13  
**team** 51:22 75:4 85:10 97:13  
 122:2 127:15 145:5 175:20  
**teams** 97:14  
**technical** 54:9 95:20 96:8 97:4  
 194:9 212:21 213:15 223:20  
 226:14  
**technically** 10:5  
**technologies** 107:7 108:2 129:18  
 137:22,25 138:9 141:18 159:12  
**technology** 111:17 137:15 139:10  
 143:7 152:2  
**tee** 26:13  
**telecom** 136:15  
**telecommunications** 101:15,17  
 210:13  
**tell** 66:19 88:21 99:9 160:22  
 197:16  
**telling** 129:4 130:12  
**Temporary** 37:25  
**tenacious** 67:2  
**term** 139:20 209:15  
**terminate** 62:16  
**termination** 47:14 170:8  
**terminations** 38:14,17 48:5 63:2  
 64:21 167:6 170:4,17  
**terms** 5:15 20:17 29:9 31:22  
 36:3 54:24 57:13 67:22 71:15  
 73:17 75:8 76:16 87:10 102:17  
 102:20 121:9 122:14 123:17  
 124:14 125:6 126:11 144:6  
 160:4 229:3  
**terrific** 141:20  
**territories** 136:14 154:20  
 187:24  
**territory** 80:24 81:20 137:10  
 173:16,17 179:25 196:8  
**test** 113:18 185:21 186:22 187:8  
 189:14 190:6  
**tested** 186:8,15 189:17,20  
**testimony** 4:5,19,24  
**testing** 185:8,23,25 186:13,17  
 187:16,25 188:4 189:13 190:17  
 195:2 200:8  
**Texas** 27:9 212:16  
**thank** 2:9 3:6 9:4,5,11,12,16,17  
 9:18,21,22 14:14 17:18 23:22

23:24 28:7,9,10,12,22,23  
 29:18,20,22 30:8 32:15,17,21  
 32:22 33:12 34:11,13,14,16,18  
 35:20,22,24 36:14,23,25 37:3  
 51:22 52:2 53:2,4,6 55:21  
 58:19,25 59:11,13,15,17 60:5  
 60:6,8 61:25 62:2 66:21,23  
 69:6 73:20 74:9,23,25 75:3,4  
 76:13 77:22,23,25 79:2,3,22  
 80:16 85:10,14,15,25 86:7,11  
 88:17 89:23 90:13,14,16 91:6  
 92:3,13,21 93:4,12,14 94:5,7  
 94:15,17,19 96:23 98:19,21  
 99:20,22,24 100:4,5 101:2,4  
 101:13 107:22 113:19,21 114:5  
 114:13 115:7,8,10,20 117:14  
 121:6 125:24 126:7,13,14,16  
 127:8,10,12,14,15 130:14  
 135:13,14,16 141:3 142:18  
 143:9,10,12,13 144:20,22,24  
 145:2 147:13,14 148:10,19,21  
 148:25 156:3,6,7 157:23 158:2  
 158:15,20,22 160:3,8,10,13  
 162:8,9,10,13,14 164:4,5,7,8  
 165:9,10,12,17,20,21 166:3  
 171:16,17 173:10,21,23 174:3  
 176:17,19,21,23 177:2,3 183:9  
 183:12,25 184:2,8,14,16,17  
 190:14,15 191:7 192:7,8  
 196:18,20,22,24 197:4 201:2,3  
 201:5,10,12,13,18 207:12,15  
 208:11,15,17 215:12,13,16,17  
 215:19,22,25 218:14,18,21  
 219:2,4,4,10 227:9,19,20,23  
 227:24 228:3,4,23 230:11,12  
 230:16,22 231:5,8,15,23 232:4  
 232:5  
**thanks** 19:3 72:11 73:23 99:18  
 142:19 184:3 191:9  
**that'd** 180:6  
**that's** 199:11  
**theory** 61:21  
**there'll** 200:7  
**there's** 130:7  
**they're** 156:20  
**thing** 15:25 57:21 68:13 69:19  
 91:3,7,12 95:5 96:7 99:2  
 108:12 109:19 120:19,24  
 124:20 136:10,23 137:13 138:3  
 138:12 139:21 141:20,21 144:8  
 158:7 164:14 194:22 208:6  
 216:13 217:11 223:20  
**things** 9:24 11:9 16:24 19:7  
 24:5,11 30:14 58:22 63:17  
 64:9 86:9 90:21 95:24 97:21  
 111:16 114:14 121:10 126:3  
 128:4,21 129:23 130:17 135:11  
 136:9 137:14,23 138:7,13  
 143:6 193:10,16 208:3,4 209:3  
 209:25 211:6,7 213:23 218:6  
 226:7 227:4 228:9 229:16  
**think** 9:13 10:8,12 11:8 12:13  
 13:6,18 15:5 16:3 22:2,14  
 30:2,23 31:8,8,15 32:25 33:3  
 33:16 35:9,16 52:7 54:24 55:3  
 55:18,22 59:3 60:12 66:11  
 71:17,25 74:5,6 75:2 86:5  
 92:5,10,11 94:20 95:24 96:15  
 96:21 97:2,5 99:2,4 113:23,24  
 114:18 115:5 118:12,21 122:11  
 125:24 126:20,22 128:20  
 130:17 131:2 133:8,11,19  
 135:12,17 136:10 137:14,15  
 138:10,12 140:16 141:5,21  
 142:6,11,15,22 143:16 144:5  
 145:5,25 146:20 147:8,10  
 158:7 161:10,16 163:2,12,16  
 164:9 165:5 173:24 178:13,16  
 180:19,21,24 181:12,24 182:3  
 182:13,20,25 183:15,17,21,23  
 191:11 192:13 195:20 196:9  
 200:13 207:25 208:22 209:23  
 209:24 212:16 216:4,19,20,23  
 217:14,15,17 218:3,13 221:15  
 222:21 223:19,20 225:7 227:3  
 229:15 230:8  
**thinking** 13:19 14:21 15:14  
 114:7 115:11,18 119:14  
**third** 5:14 46:9 84:5 152:11  
 182:23 193:22 194:19 204:2  
**third-** 150:16  
**third-party** 150:22 197:8  
**thorough** 141:5 167:14  
**thoroughly** 17:14  
**thought** 9:24 54:11 57:16 88:18  
 91:17 114:17 220:5 228:13  
**thoughtful** 13:10 130:15  
**thoughts** 56:9  
**thousands** 65:20 181:19 182:10  
**three** 4:2,10 5:6,16,18 8:20

12:10 29:11,17 42:11 46:12	<b>toolkit</b> 220:20,22
101:18 173:7 187:24 189:24	<b>tools</b> 212:16
<b>three-year</b> 3:24 5:4	<b>top</b> 26:6 30:25 66:5 129:12
<b>threshold</b> 27:24 86:12 116:23	133:2 205:3
186:4 211:24	<b>topic</b> 98:25 213:7
<b>throw</b> 28:3 141:14	<b>total</b> 5:15 29:14,16 31:5 39:7
<b>Thursday</b> 1:6	39:11,12 45:2,10,12,18 49:14
<b>tickets</b> 151:4,8,11	64:16 75:14 78:8 87:17 151:3
<b>tie</b> 7:24	151:4,6,10 153:3,5,17,20,21
<b>tied</b> 136:23	186:12,21 188:3,25 189:17,19
<b>till</b> 14:11 17:9	189:25
<b>time</b> 4:22 9:2 11:19 27:14 28:2	<b>totaling</b> 48:22 168:18,25 169:11
40:4 52:3 57:17 58:6,10,11	<b>totally</b> 92:16 180:20,20 225:9
65:24 67:14 73:4 80:13 85:18	<b>touch</b> 109:16 124:10 142:25
95:9 98:13 99:9 101:2 109:20	<b>tough</b> 65:24 164:11
118:15 134:11 137:18 138:17	<b>town</b> 108:14 113:6,7 130:8
145:6 151:17,23 152:6 163:19	133:14 140:4,10,12,13 198:21
173:24 174:4 175:2 191:10,14	<b>towns</b> 112:9,21,25 140:5,16,19
191:15,21 192:22 194:6 198:16	141:23
199:5,9 205:6 208:13 209:8	<b>TRACEY</b> 1:14
213:21 217:23 220:6 229:17	<b>track</b> 53:23,24 166:16
233:4	<b>tracked</b> 19:15
<b>timeframe</b> 45:4,12,14 75:16	<b>tracker</b> 19:8,16,18 20:3 22:5
108:4 152:19 153:11 156:25	33:22 214:22
<b>timeline</b> 83:15	<b>tracking</b> 214:23 224:11
<b>timelines</b> 84:12,23	<b>Tracy</b> 2:17
<b>timeliness</b> 76:16 114:3	<b>traditional</b> 3:19 95:7,8 171:11
<b>timely</b> 44:2,18 60:2 94:20	<b>traditionally</b> 98:7 160:22
127:16	<b>tragic</b> 191:22
<b>times</b> 4:10 15:13 24:10 63:19	<b>training</b> 82:17 94:3 95:11
65:19 87:2 131:15 135:18	<b>trainings</b> 81:12
136:12 180:21,23	<b>transcription</b> 233:6
<b>timing</b> 37:22 50:9,10 51:14	<b>transfer</b> 6:22 193:13
113:23 214:16	<b>transition</b> 3:8 168:19 201:14
<b>tireless</b> 51:23	214:18
<b>titles</b> 95:20 96:8	<b>transmission</b> 185:24 188:17
<b>today</b> 3:10 9:14,23 23:18 26:15	224:3,8
34:3 37:5,8,12 44:12 52:5	<b>transparency</b> 182:20
56:7 60:2 76:17,23 77:12,21	<b>transparent</b> 34:23 53:15 68:25
80:11,17 90:12 92:4 98:24	217:18
99:11 101:3,5,8 113:19 114:5	<b>travel</b> 126:20,24
120:7 125:7 136:3 140:3	<b>traveled</b> 145:8
144:10 145:24 146:12 149:7	<b>traveling</b> 126:24
158:19 162:25 183:24 184:19	<b>treated</b> 25:19 172:4
184:24 201:15,19 202:10,22	<b>treatment</b> 171:8
208:12 209:12 219:5 230:2	<b>tree</b> 203:12,25 204:7 206:5
231:25 232:3	<b>tree-related</b> 203:16,18
<b>today's</b> 219:8	<b>trees</b> 203:17 204:4,11
<b>tool</b> 111:3 146:4,24 147:10,11	<b>tremendous</b> 177:7
220:20	<b>tremendously</b> 164:2



**trend** 151:10 155:14,15 188:24  
**trending** 173:19 198:20  
**trendline** 151:12  
**trends** 159:17 166:17 173:13  
 192:18 202:6  
**tribal** 112:21  
**trick** 31:18 136:20  
**tricks** 31:19  
**trimmed** 203:23 204:10  
**trimming** 203:19  
**Tropical** 207:9  
**Troy** 107:23  
**true** 87:20 95:20,21 119:4 233:7  
**truly** 65:5 160:2  
**try** 20:7 60:19 89:2,18 97:24  
 135:22 179:9 191:24 214:13  
**trying** 22:16 24:22 54:22 123:21  
 181:12 196:9 210:22 213:21  
 229:22  
**tune** 70:19  
**turn** 197:15 200:3,4  
**turns** 31:14  
**tutorial** 109:17  
**twelve** 187:16  
**twice** 173:4  
**two** 3:8,16 5:17 16:24 20:9,23  
 23:4 29:11,17 42:9 44:6,8,25  
 49:3 50:23 52:11 53:10 54:4  
 54:17 55:20 56:12 58:3 60:10  
 61:7,23 62:3,10,19 63:5,14,25  
 64:3,7,8,12,14 65:13,16 66:17  
 66:25,25 67:19 71:12 77:19  
 88:20 93:17 129:23 134:20  
 136:8 143:15 173:4 187:17  
 189:23 190:3 193:8 204:7  
 218:6  
**type** 57:6 72:2 96:18 108:13  
 111:17 112:24 113:11 152:18  
 152:20,24 156:12,14,15,22  
 157:3,5,14,20,24  
**types** 152:18 153:2 156:11,21,24  
**typewritten** 233:6  
**typically** 86:20 87:12 167:9  
**typing** 109:19  
**typos** 4:10

---

**U**


---

**U.A.U. 'S** 10:2  
**UDig** 160:11  
**Uh-huh** 157:11 172:13

**Ukraine** 137:16  
**ultimately** 32:12 55:9 56:25  
 69:21 73:7 105:5 114:4 170:13  
 187:13 213:22  
**umbrella** 33:14  
**un-levelized** 3:25  
**unable** 50:3  
**unaffordable** 128:17  
**uncollectables** 70:25 71:3 167:6  
 170:8  
**uncollectible** 64:23 170:5,12  
**uncovers** 128:4  
**undergoing** 58:9  
**underground** 150:14 185:22  
 188:11  
**underline** 16:2  
**underlying** 23:25  
**underscore** 18:24 192:4 208:18  
**underscoring** 23:23  
**underserved** 102:19 103:14 105:6  
 107:9 109:2,6 110:21 117:22  
**understand** 14:17 15:10 30:21  
 32:19 56:23 57:11 63:15 65:25  
 66:13,14 70:6,18 77:19 90:5  
 95:4 97:2 135:9 156:13 181:5  
 193:15 194:21 211:12,22 214:4  
 214:5 215:2 220:21,22 226:23  
**understandable** 8:21  
**understanding** 11:19 40:4 52:14  
 56:4 91:20 161:12 178:22,23  
 194:2,23 195:16 211:15 224:18  
 225:8  
**understands** 212:25  
**understatement** 67:3  
**understood** 117:25 119:8  
**undertake** 23:8,18 99:7  
**undertaken** 51:18  
**undertaking** 108:4 164:23 193:3  
**unhappy** 180:15  
**unintended** 57:8,10 62:6  
**unique** 78:19 178:18  
**unit** 8:9 41:10 95:15 98:7,16  
**United** 136:13  
**units** 95:18 188:4  
**universal** 59:23 102:10 136:2  
 137:10 140:17,20  
**unpaid** 37:15  
**unpleasant** 182:19  
**unprecedented** 39:4 50:4 63:19  
 65:19 177:17 210:5

**unreliable** 128:17  
**unsatisfied** 179:14 182:5 183:19  
**unserved** 102:19 103:16 105:7,17  
 107:8 109:2,7 110:21 111:2  
 113:3 117:22 128:11 129:18  
**unveiling** 146:12  
**update** 60:13 106:5 175:11  
**updated** 4:10 60:25 109:23 147:2  
 210:20  
**updates** 49:23  
**updating** 120:9 147:3 191:20  
**upgrades** 159:16 193:4 194:15  
**upgrading** 223:9  
**upload** 111:18  
**upper** 108:18  
**Upstate** 76:11 187:20  
**upward** 31:4  
**urban** 157:3,4  
**urbanized** 139:8  
**urgency** 64:11  
**urgent** 52:9  
**urgently** 76:22  
**use** 24:18 38:8 46:24 47:10  
 50:21 89:4 106:21 109:15  
 118:20 126:25 147:12 152:2  
 158:11,14 159:4 193:24 222:8  
 222:11 223:4,14  
**user** 33:22 109:9,11,20,22  
 110:12,19 111:8,10  
**users** 112:19 113:10  
**uses** 202:4  
**usually** 10:14 131:15 205:10  
**utilities** 20:18 23:7 31:13  
 38:24 39:16,24,24 41:9 42:3  
 43:5,19 46:13,19 47:7,11,13  
 48:7,19 49:5,25 58:8 59:21  
 61:17 62:16,18,22,23 63:2,10  
 69:24 70:18 80:9,19,23 82:2  
 82:10,14,15,19,25 83:6,7,10  
 83:18,19,21,25 84:7,10,11,18  
 84:20,22,25 85:6 86:4,18  
 87:19 92:17,25 93:6,9,25  
 94:10,21 95:8,18 96:2 97:6,20  
 97:24 99:6,15 122:7 135:20,21  
 135:25 136:15 139:25 142:6  
 159:10 160:10 166:6,15 167:10  
 167:14,23 168:5 170:9,20  
 173:12 174:8,11,15 175:9,14  
 176:6 177:19 184:25 185:21  
 187:8 188:14,17,21,25 190:10

191:18 193:10 194:18 195:21  
 196:17 197:9 199:3 200:22  
 201:24 202:4,9,17 203:5  
 205:21,24 206:6,21 216:9  
 217:24 219:20 224:25 225:17  
 229:13  
**utilities'** 57:7  
**utility** 3:18 4:17 7:19 8:8 30:5  
 37:15,19 38:15,18,19,23 39:2  
 39:3,10 41:6,10,13 42:20  
 43:22 46:8,17,25 47:14,18  
 48:20,24 49:10,14,22 50:4,16  
 50:17,23 51:7,10,11 52:6  
 57:23 67:7,12,23 68:2 75:13  
 75:17,18 76:2,2,5 80:24 81:2  
 81:18,20,23 84:14 85:11 95:4  
 95:6 101:18 142:15 149:13  
 158:6 159:3,24 165:24 166:14  
 166:23 167:2,11 168:13 169:21  
 169:25 170:2,7,14,17 171:6,8  
 173:16 174:10,25 175:5,13  
 176:13 177:24 178:5,10,20  
 179:11,16,18,19 180:6 181:13  
 181:20 182:2,24 183:7 185:11  
 187:11,11,24 190:18 191:2,2  
 193:17 197:15 198:4,9,19,25  
 199:15,20,24 202:18 216:12  
**utility's** 47:2,4 179:13 182:3  
**utilize** 47:8 81:10  
**utilized** 48:9 104:20

---

**V**


---

**V.H.B** 108:2  
**Val** 173:24  
**Valerica** 149:9,10,12  
**Valery** 101:8,10,14 118:12  
**Valesky** 1:17 2:25 3:2 32:16,17  
 34:17 35:4 36:18,19 74:24,25  
 75:25 76:7,9,12 79:17,18  
 98:20,21 100:19,20 143:11,12  
 145:11 148:14,15 165:11,12  
 184:7,8 201:4,5 218:19,20  
 230:13,14 231:16,17  
**valuable** 15:18 146:4 147:10  
**valued** 90:9  
**varies** 154:10  
**variety** 31:12 67:16 95:6,14  
 164:23  
**various** 85:23 86:6 95:18 112:19  
**varying** 154:12

**vast** 139:7  
**vegetation** 204:16 216:10,12,15  
 217:5 218:2  
**vendors** 91:4  
**vent** 153:12  
**verification** 167:17  
**verify** 150:2 199:7  
**versus** 119:12 191:2  
**veto** 227:2  
**viable** 215:6  
**video** 109:17  
**view** 95:7 98:15 111:22 112:20  
 117:16 154:20 202:24 207:4  
 216:3  
**viewed** 177:10  
**vigilance** 192:9  
**vigilant** 165:6  
**vigor** 158:8  
**Village** 198:21  
**villages** 112:22  
**violation** 161:8,15  
**violations** 154:21,22,24 155:2  
 155:12,14  
**virtual** 155:7  
**visual** 185:8 188:15  
**visualize** 110:20  
**vital** 38:23 166:9  
**voice** 15:20,21  
**voiced** 86:25  
**volt** 186:4,10,13 187:22  
**voltage** 126:10 185:8,15 186:3,5  
 186:8,10,12,13,17,21 187:3,16  
 187:21,23,25 188:3,9 189:13  
 189:19 190:2,17,17 192:20  
 194:13 195:2,4 197:9,14  
 199:25 200:7,12  
**voltages** 186:7  
**voltmeter** 186:9  
**volts** 186:18,20,23,23  
**volume** 152:6  
**voluntarily** 55:15 194:25 195:4  
 195:19  
**vote** 32:2 34:20,21 35:3,25 36:2  
 36:4,7,8,12,12 58:17 65:10  
 66:19 78:21 79:5,5,7,8,10,13  
 100:7,7,9 146:15 147:16,22,22  
 148:8 221:13 230:21,23,24  
 231:2,3,7,11,17,20  
**voted** 30:17 35:11 219:23 220:6  
 231:4

**votes** 79:23 100:25  
**voting** 9:23 26:23 32:13 35:19  
 93:11 100:2 125:21 147:9,16  
 148:5 219:12,16 221:8,13  
 224:4,21,22,22  
**vulnerability** 224:20,25 225:10  
 225:16  
**vulnerable** 39:22 50:24 65:6

---

**W**


---

**wait** 132:6 147:5 175:17  
**waiting** 135:12 176:17  
**waiver** 169:12 221:11 222:10,11  
 222:13 223:8,10  
**waivers** 222:11,23 223:5  
**walk** 197:7  
**Wall** 113:25  
**want** 3:7 9:24 11:15 14:15,17  
 15:25 17:20 18:4,17,24 20:4  
 22:20 25:21 26:9 28:2,7 30:23  
 33:12,25 34:5,11,20 35:20  
 51:22 52:3,12 54:8 57:8,14  
 58:24 62:2,5 73:20,23 74:2  
 75:7 76:13 77:6 78:23 86:12  
 87:4 92:14,20 93:24 110:18  
 113:10 114:4,13,21 115:7,16  
 117:3 118:6 119:21 123:4,12  
 124:12,18 127:8,15 132:6  
 143:15 145:3 158:15,23 160:8  
 160:10 161:24 163:22 164:8,18  
 181:13 182:7 183:14,18 192:3  
 195:11 197:2 198:13 201:10  
 212:14,15,15,16 213:20 214:13  
 214:22 217:21 224:6,10 225:20  
 226:19  
**wanted** 4:23 9:8,15 13:4 32:21  
 68:14 69:14 76:13 93:16 99:23  
 113:14 121:25 142:20 195:21  
 213:5  
**wanting** 227:11  
**wants** 20:17 34:21 53:17  
**Warner** 134:11  
**wasn't** 14:5 118:12  
**wasting** 213:21  
**watch** 79:25  
**water** 25:15 82:10 83:10 87:19  
 149:14 166:6 167:23 168:5  
 210:13  
**way** 11:16 13:21 22:7 25:10,13  
 27:4,4 31:7,23 38:11 54:15

<p>55:2 58:17,20 59:4,8 67:15  78:20 117:15,16 119:15 121:13  132:5 135:24 141:3,9,16 147:7  159:18 162:7 176:12 183:20  191:23 204:12 211:14,17  212:12,13,18 213:13 214:2,15  214:16 215:11 218:3 228:16  229:5  <b>ways</b> 24:7 26:16 99:2 124:17  144:6 161:25 162:4  <b>we'll</b> 3:7,8 9:19 13:22 18:12,13  33:17 80:3,7,11 98:3 100:6  109:18 116:20 120:24 127:7  142:24 148:24,25 158:10  <b>we're</b> 10:7 11:19 19:20 22:7,16  23:5 24:5,20,22 25:2,3,13  26:3,7 27:11 52:8 55:23,23  56:2 57:12 68:16 70:7,8,11  78:18 88:7 89:8 91:17 92:9  93:2 94:23 97:25 108:4 116:25  117:4 119:3,9,15 124:12  125:15 126:9 130:11 133:9  138:22 141:10 144:4 146:23  147:16 148:5,23 149:6 159:24  162:6 173:18 176:16 179:18  183:5,22 191:24,24 192:2,5  193:6,20 194:7 198:25 209:3  210:7 213:16,22,23 216:10  219:5 220:16,17,22,25,25  222:17 224:7,9 225:11,21  226:9 228:9  <b>we've</b> 25:25 58:8 86:3 88:20  89:17 119:9 121:8 158:4  163:17 180:24 191:15,22 209:2  210:21 212:11 216:11 220:11  222:24 223:24  <b>we'd</b> 115:25  <b>weaknesses</b> 89:14  <b>weather</b> 202:9  <b>website</b> 108:11 111:22 210:11  <b>websites</b> 49:21  <b>week</b> 210:4  <b>weeks</b> 68:21  <b>weeks'</b> 58:14  <b>weigh</b> 11:8 15:24 18:22 180:17  <b>weigh-in</b> 13:4 15:22  <b>weighed-in</b> 15:13  <b>weighing</b> 227:6  <b>weightings</b> 88:25 89:5  <b>welcome</b> 62:13 80:7 208:14</p>	<p><b>went</b> 52:3 77:7 89:15 109:13  128:8 144:5 177:20,21 180:12  180:15 182:24 200:2  <b>Westchester</b> 181:18  <b>whatsoever</b> 68:9  <b>WHEREOF</b> 233:9  <b>whichever</b> 152:22  <b>whispering</b> 214:7  <b>Whitaker</b> 165:25 166:3 171:18,23  172:2,6,10,13,25 173:13 174:5  175:19 177:14 178:24 184:17  <b>White</b> 66:10 187:18  <b>wholesale</b> 18:14 30:22 31:2  209:13,17  <b>widgets</b> 109:8  <b>wildly</b> 67:21  <b>willing</b> 8:22 13:22 141:14  <b>winds</b> 123:19  <b>winter</b> 27:10,12 210:6  <b>wired</b> 104:9  <b>wireless</b> 104:9 138:9 139:12  <b>wisdom</b> 68:10,11  <b>wise</b> 24:5 98:2  <b>wish</b> 219:7 224:15  <b>WITNESS</b> 233:9  <b>women</b> 98:8,10,16  <b>wonder</b> 143:20  <b>wondering</b> 19:10 22:15 156:11  175:10  <b>wonky</b> 223:19  <b>wood</b> 157:7  <b>woodland</b> 157:7  <b>word</b> 121:8 145:18 179:23 183:17  226:16  <b>words</b> 34:25 90:25 195:23  <b>work</b> 9:16 19:17 22:7,15 28:21  32:22 33:4 34:12 35:9,17,21  51:18,21,23 52:3 53:2 75:5,18  78:5,23 85:18 90:4,13 93:16  94:5 96:3 98:9,12,22 99:15,19  99:25 105:12 107:19 108:5  109:25 114:5 115:8 116:10  118:13 126:5,8 127:10,25  128:2 130:20 131:17 134:14  135:10,23 143:14,14 144:6,20  144:21 145:4 148:22 158:5  159:19 160:15,19 174:13  191:17 194:3 197:11 205:5  209:7 225:18 227:17  <b>worked</b> 85:18 91:9 115:21 116:13</p>
---	---

118:9 127:15 137:17 162:2  
**workforce** 80:23,23 81:6,19  
 93:23 95:2 96:4,18,20 202:12  
 202:13  
**workforces** 94:21  
**working** 27:22 41:5,8,21,22 44:4  
 44:14 51:19,23 53:8,10,13,22  
 54:12 56:13,16,22,24 57:12  
 60:11 64:2,10 83:17 84:2,7,15  
 84:21,25 85:5 86:19 91:9 98:4  
 114:5 115:12 116:25 118:8  
 120:24 121:4 230:6  
**workings** 57:7  
**workload** 124:14  
**workplace** 81:7  
**works** 56:3 99:14 118:7  
**world** 31:7 67:15 74:2 90:11  
**worse** 136:7 205:18,21 208:8,9  
**worst** 35:15 204:16  
**worth** 9:25 10:8 34:9,10 58:14  
 126:20,23 217:3 222:22 223:20  
**wouldn't** 89:21 140:2 178:9,12  
 178:22 179:19  
**wrap** 19:5  
**write-off** 167:6  
**writing** 39:25 63:4 65:15 68:2  
**written** 162:25 201:22  
**wrong** 13:2 67:24 147:3 200:2  
 229:25  
**wrote** 62:3 63:17

---

**X**


---

**X** 1:13 198:21 211:10 217:22

---

**Y**


---

**Y** 198:21 211:10  
**yeah** 14:9 21:25 29:8 30:4 52:25  
 56:11 61:2,4 66:23 73:2 74:21  
 75:19 92:13 118:4 121:19,22  
 122:5,24 125:20 133:23 135:16  
 143:3 158:3 164:7 174:5 177:5  
 183:14 191:7 197:6 200:16,21  
 215:25 216:25 228:6  
**year** 4:8 5:13,13,14,17,17,18  
 7:8 11:25 17:3,4 20:20,22  
 29:10,10,11,16,17,17 31:25  
 34:7 42:12,22 47:5 49:23  
 124:2 132:7 134:25 135:6,12  
 144:10 145:12 147:5 150:6  
 153:9,17,19 154:4,10,10

156:23 160:11 163:19,23  
 166:17 170:5 172:5 174:23  
 175:3,18 176:11 177:17 185:18  
 185:19,25 187:19 188:16,19  
 191:13,19 192:19,19 195:20  
 201:25 202:23 204:3 205:18,22  
 213:4,6 217:15 218:14  
**year's** 160:25  
**year-and-a-half** 91:23  
**year-to-year** 176:16  
**years** 4:2 5:6,16 12:10 31:8  
 49:13 64:20 67:20 75:13,22  
 81:25 88:20 97:16 140:18  
 151:10 153:16 154:18 155:13  
 172:17 188:5,18 189:7 190:4  
 202:10,25 204:10,19 205:9  
 206:10 207:3 220:9,10 223:2,3  
 225:13,13 227:10  
**yell** 136:17  
**yesterday** 113:24 213:14 224:6  
**Yonkers** 180:11,11 187:18  
**York** 1:1,2,9 2:1 3:1 4:1 5:1  
 6:1 7:1 8:1 9:1 10:1 11:1  
 12:1 13:1 14:1 15:1 16:1 17:1  
 18:1 19:1 20:1 21:1 22:1 23:1  
 24:1 25:1 26:1 27:1 28:1 29:1  
 30:1 31:1 32:1 33:1 34:1 35:1  
 36:1 37:1,25 38:1 39:1 40:1  
 41:1,9,10,13,15,16,18 42:1  
 43:1 44:1 45:1 46:1,21 47:1  
 48:1 49:1 50:1 51:1 52:1 53:1  
 54:1 55:1 56:1 57:1 58:1 59:1  
 60:1 61:1 62:1 63:1 64:1 65:1  
 66:1 67:1 68:1 69:1 70:1 71:1  
 72:1 73:1,3,7,13,18 74:1 75:1  
 76:1 77:1 78:1 79:1 80:1 81:1  
 82:1,2,5,9,13 83:1,11 84:1,3  
 85:1,25 86:1 87:1 88:1 89:1  
 90:1 91:1 92:1 93:1 94:1 95:1  
 96:1,6 97:1 98:1 99:1 100:1  
 101:1 102:1 103:1,8 104:1,14  
 104:20 105:1 106:1,5 107:1  
 108:1,8 109:1,14 110:1 111:1  
 112:1 113:1 114:1 115:1,13  
 116:1 117:1,9,19 118:1,21  
 119:1 120:1 121:1 122:1 123:1  
 124:1 125:1 126:1 127:1 128:1  
 129:1 130:1 131:1 132:1 133:1  
 134:1 135:1 136:1 137:1 138:1  
 139:1,15 140:1 141:1 142:1,22

143:1 144:1 145:1 146:1 147:1	<b>1.2</b> 7:15
148:1 149:1 150:1 151:1 152:1	<b>1.62</b> 151:7
153:1 154:1 155:1 156:1 157:1	<b>1.7</b> 5:5 39:8 52:5
158:1 159:1 160:1,11,12,22	<b>1.8</b> 5:5
161:1 162:1 163:1 164:1 165:1	<b>1.85</b> 151:7
166:1,5 167:1 168:1,9 169:1	<b>1:54</b> 149:3
170:1,20 171:1,5 172:1 173:1	<b>10</b> 189:6,15 190:7 195:5 223:3
174:1 175:1 176:1 177:1 178:1	<b>10.25</b> 6:5,7
179:1 180:1 181:1 182:1 183:1	<b>10.75</b> 6:7,8
184:1 185:1 186:1 187:1,17	<b>10:31</b> 1:7 2:2
188:1 189:1 190:1,10 191:1	<b>100</b> 83:10 188:16 209:20
192:1 193:1 194:1 195:1 196:1	<b>100,000</b> 164:16
197:1 198:1 199:1 200:1 201:1	<b>1000</b> 151:8,11
202:1 203:1 204:1 205:1 206:1	<b>1000s</b> 137:3
207:1 208:1 209:1,19 210:1,9	<b>1003</b> 189:22
210:13,18 211:1 212:1 213:1	<b>101</b> 149:7,15
214:1,19 215:1 216:1 217:1	<b>102</b> 3:10 208:23
218:1 219:1 220:1 221:1 222:1	<b>10s</b> 137:3
223:1 224:1 225:1 226:1 227:1	<b>11</b> 103:22 149:19 154:19 206:2
228:1,9 229:1 230:1 231:1	<b>1173</b> 162:5
232:1 233:1,2	<b>12</b> 151:7
<b>York's</b> 103:18,21,24 106:15	<b>12:18</b> 80:2,4
118:23 201:21	<b>12:29</b> 80:5
<b>Yorkers</b> 50:3 65:6 102:4 104:25	<b>12:33</b> 80:2
127:20 212:7	<b>126,000</b> 39:8
<b>young</b> 95:22 98:10	<b>12th</b> 40:22
<hr/>	
<b>Z</b>	
<hr/>	
<b>Z</b> 211:10	<b>13</b> 167:19 189:23
<b>zip</b> 108:14	<b>14</b> 151:9 153:18
<b>zone</b> 203:17	<b>14-M-0565</b> 37:6
<b>zoom</b> 113:13	<b>14th</b> 4:8 16:9
<b>zooming</b> 110:22 113:12	<b>15-</b> 139:2
<b>zooms</b> 111:8	<b>15.65</b> 169:9
<hr/>	
<b>0</b>	
<hr/>	
<b>0.018</b> 189:20	<b>152</b> 45:16
<b>0.03</b> 186:14	<b>15th</b> 47:12
<b>0260</b> 36:12	<b>16</b> 1:6 129:5,11 132:19,25
<b>0394</b> 36:13	<b>16,000</b> 30:7
<b>08</b> 150:22	<b>161</b> 219:11 231:4
<hr/>	
<b>1</b>	
<hr/>	
<b>1</b> 6:9 47:13,17 103:14 109:5	<b>164</b> 72:22
152:18 156:12,15,22 157:3,10	<b>167</b> 72:21
157:14,20 186:18,22 206:22	<b>17</b> 205:23 225:13
233:5,6	<b>174</b> 187:6
<b>1,151,441</b> 61:22	<b>17th</b> 16:10 185:18 191:13
<b>1,151,442</b> 61:14	<b>18</b> 67:4
<b>1.15</b> 39:5	<b>185</b> 45:8
	<b>19</b> 102:2 150:23 169:18 206:18
	<b>19-</b> 150:5
	<b>19-E-0378</b> 169:13
	<b>195</b> 39:13 63:19
	<b>1990s</b> 149:19
	<b>19th</b> 1:8

**1st** 5:6 37:16 40:3 43:15 44:3  
45:4,11,17,19 47:23,25 48:14  
51:4 58:4 60:22,24 62:8,17  
72:13 77:9

---

**2**

---

**2** 31:25 47:16,18 149:13 152:18  
154:17 156:12 157:5,10,14  
206:17,19,21,23 217:6  
**2.3** 39:4,12  
**2.5** 103:15 109:6  
**2.8** 189:21  
**2:03** 149:4  
**20** 67:4 103:25 140:17 188:15  
204:19  
**20-** 38:3  
**20-G-0101** 7:23  
**20,000** 30:3 137:19 139:2  
**2005** 185:7  
**201** 165:23 166:4  
**2013** 7:10 213:8  
**2014** 189:6  
**2016** 202:25 207:5  
**202** 37:6,12  
**2020** 38:12 40:6 43:15 45:4,11  
150:3 151:7 153:17 154:18,21  
155:2,11 188:2 189:4,14 190:4  
194:25 204:8 205:3 206:19,23  
207:7,11  
**2021** 39:16 40:22,25 41:4,7  
149:8,15,24 150:19 151:2,8,24  
153:17 156:4 165:23 166:6  
167:13 168:2,6,14 169:5,16  
170:14 171:15,25 184:19 185:2  
185:17 186:15,21 187:5,23  
188:19,23 189:18 190:5,12  
191:13 195:3 201:16,21 202:24  
203:10,22 204:22 205:3,17  
206:16,22 207:2,6,12 208:2  
**2021-2022** 42:12  
**2022** 1:6 31:11 37:16 40:3 43:16  
44:3,5 45:4,11,17,19 46:19  
47:5,12,23,25 48:14 51:4  
61:13 72:13 141:17 172:4  
190:6 203:19,25 209:21 233:10  
**2022-2023** 42:22,25  
**2023** 203:23  
**203** 101:5,19  
**204** 80:8  
**21** 203:25 205:20

**21-** 3:10  
**21-G-0260** 3:10  
**21st** 39:16 233:10  
**22-E-0134** 201:15  
**22-E-0206** 184:19  
**22-G-0165** 149:7  
**22-M-0054** 165:23  
**22-M-0313** 101:5  
**22-M-0314** 80:9  
**220** 222:2  
**220,000** 189:5  
**224-C** 147:20  
**23** 17:7 129:4 132:16 141:17  
**232** 233:7  
**23rd** 16:24 44:5  
**24** 64:16  
**24,000** 168:25  
**245** 186:12 187:5  
**25** 50:19 141:17  
**25.58** 169:10  
**250** 43:2,13 44:17 45:5 48:15  
57:25 67:11 68:8 74:4,6 76:19  
77:13,20 78:3,17  
**25th** 129:6,13 132:19 133:2  
**26** 60:21 103:21,22 141:17  
**266** 54:18 55:4  
**267** 54:18 55:5  
**28** 5:21  
**281** 48:14  
**28th** 41:7  
**297,151** 61:11  
**29th** 40:6  
**2A** 152:18 156:21 157:15  
**2nd** 185:19 188:19

---

**3**

---

**3** 1:8 47:20 103:24 147:20  
152:18,20,24 154:17 156:12,24  
157:10,24  
**3:48** 1:7  
**30** 129:9 132:22 140:17 151:20  
166:23  
**300** 73:5  
**301** 184:19  
**302** 201:15  
**327,159** 61:15,20,22  
**339** 72:13,18  
**36** 16:15 70:19 71:21  
**36.236** 48:22  
**362** 221:9

<b>37</b> 16:15	54:1 55:1 56:1 57:1 58:1 59:1
<b>370</b> 224:2 228:7 231:4	60:1 61:1 62:1 63:1 64:1 65:1
<b>371</b> 230:20,20 231:21	66:1 67:1 68:1 69:1 70:1 71:1
<b>375</b> 224:20 231:4	72:1 73:1 74:1 75:1 76:1 77:1
<b>38</b> 202:22 207:5	78:1 79:1 80:1 81:1 82:1 83:1
<b>3rd</b> 16:12	84:1 85:1 86:1 87:1 88:1 89:1
<hr/>	
<b>4</b>	
<hr/>	
<b>4</b> 47:22 153:22 154:17 157:10	90:1 91:1 92:1 93:1 94:1 95:1
206:18	96:1 97:1 98:1 99:1 100:1
<b>4.4</b> 186:18,22	101:1 102:1 103:1 104:1 105:1
<b>4.5</b> 186:4,19,23	106:1 107:1 108:1 109:1 110:1
<b>40</b> 188:22	111:1 112:1 113:1 114:1 115:1
<b>40,000</b> 65:12 189:18	116:1 117:1 118:1 119:1 120:1
<b>42</b> 104:8 206:22	121:1 122:1 123:1 124:1 125:1
<b>430</b> 189:23	126:1 127:1 128:1 129:1 130:1
<b>435</b> 45:5	131:1 132:1 133:1 134:1 135:1
<b>44</b> 189:23	136:1 137:1 138:1 139:1 140:1
<b>45</b> 151:21	141:1 142:1 143:1 144:1 145:1
<b>46,000</b> 142:22	146:1 147:1 148:1 149:1 150:1
<b>47</b> 206:18	151:1 152:1 153:1 154:1 155:1
<b>494</b> 189:20	156:1 157:1 158:1 159:1 160:1
<b>4th</b> 185:19 188:19	161:1 162:1 163:1 164:1 165:1
<hr/>	
<b>5</b>	
<hr/>	
<b>5</b> 153:21 154:18 204:10,23 205:9	166:1 167:1 168:1 169:1 170:1
206:10 223:2 225:13	171:1 172:1 173:1 174:1 175:1
<b>5-year</b> 154:11,18 185:19 191:20	176:1 177:1 178:1 179:1 180:1
205:19,22 206:20,24	181:1 182:1 183:1 184:1 185:1
<b>5.2</b> 203:15	186:1 187:1 188:1 189:1 190:1
<b>50</b> 6:4 40:13 136:13 204:6	191:1 192:1 193:1 194:1 195:1
209:22	196:1 197:1 198:1 199:1 200:1
<b>50,000</b> 187:21	201:1 202:1 203:1 204:1 205:1
<b>500</b> 6:16 71:21 72:8	206:1 207:1 208:1 209:1 210:1
<b>55</b> 104:10	211:1 212:1 213:1 214:1 215:1
<b>587</b> 45:19,22	216:1 217:1 218:1 219:1 220:1
<b>5G</b> 138:7 139:10,12,16 199:12,16	221:1 222:1 223:1 224:1 225:1
199:20,23,25 200:5	226:1 227:1 228:1 229:1 230:1
<hr/>	
<b>6</b>	
<hr/>	
<b>6</b> 151:2 156:22	231:1 232:1 233:1
<b>6-16-2022</b> 1:1 2:1 3:1 4:1 5:1	<b>6.4</b> 5:18 29:17
6:1 7:1 8:1 9:1 10:1 11:1	<b>6.76</b> 169:7
12:1 13:1 14:1 15:1 16:1 17:1	<b>6.9</b> 5:17 29:15
18:1 19:1 20:1 21:1 22:1 23:1	<b>60</b> 17:2,3,12 104:18 151:21
24:1 25:1 26:1 27:1 28:1 29:1	<b>600,000</b> 168:18
30:1 31:1 32:1 33:1 34:1 35:1	<b>62</b> 103:21
36:1 37:1 38:1 39:1 40:1 41:1	<b>6200</b> 187:23
42:1 43:1 44:1 45:1 46:1 47:1	<b>647</b> 39:11
48:1 49:1 50:1 51:1 52:1 53:1	<b>66</b> 189:4
<hr/>	
<b>7</b>	
<hr/>	
<b>7</b> 5:17 10:3 23:10 29:16 33:20	<b>68</b> 23:11
72:23 150:24 155:12 189:19	<b>6810</b> 188:2



204:4  
**70** 203:15  
**72** 23:12  
**74** 110:16  
**75** 6:6 151:19  
**75,000** 189:2  
**750,000** 169:8  
**78** 7:21,25 8:4,12,18,24 10:4,10  
11:16,21 12:23,24 13:9,13  
14:4  
**794** 39:14  
**7th** 38:12 43:15 45:3,11

---

**8**

---

**8** 189:2  
**8.5** 222:2  
**80,000** 104:21 126:20  
**81,000** 189:4  
**811** 160:12  
**82** 5:12  
**825** 62:20 63:23  
**825,000** 61:24 62:20 65:11 66:15  
**85** 168:14,23  
**86** 5:14 168:22  
**87** 168:15  
**89** 5:13  
**893,735** 61:10

---

**9**

---

**9** 150:20 153:19 154:19 207:7  
**9.68** 169:6  
**9.75** 6:5  
**90** 6:7 103:23 151:20  
**900,000** 169:11  
**911** 159:2  
**95** 103:22 151:21  
**96.1** 221:25  
**97** 114:19  
**97.4** 103:12,17 109:4 128:6  
**98** 141:22  
**99** 3:20