

1 1/19/2023 - Monthly Meeting

2 STATE OF NEW YORK

3 PUBLIC SERVICE COMMISSION

4 MONTHLY MEETING

5

6 Thursday, January 19, 2023

7

10:31 a.m. until 12:14 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 JAMES S. ALESI

15 TRACEY A. EDWARDS

16 JOHN B. HOWARD

17 DAVID J. VALESKY

18 JOHN B. MAGGIORE

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1 1/19/2023 - Monthly Meeting

2 (The meeting commenced at 10:30 a.m.)

3 CHAIRMAN CHRISTIAN: Good morning. I
4 call this session of the Public Service Commission to
5 order.

6 Madam Secretary, are there any changes
7 to the final agenda?

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

10 CHAIRMAN CHRISTIAN: Thank you.
11 Before moving to the agenda I'd like to conduct a
12 roll call of the Commissioners. When I call your
13 name please confirm that you are present.
14 Commissioner Diane Burman?

15 COMMISSIONER BURMAN: Present.

16 CHAIRMAN CHRISTIAN: Commissioner
17 James Alesi?

18 COMMISSIONER ALESI: Present.

19 CHAIRMAN CHRISTIAN: Commissioner
20 Tracey Edwards?

21 COMMISSIONER EDWARDS: Present.

22 CHAIRMAN CHRISTIAN: Commissioner John
23 Howard?

24 COMMISSIONER HOWARD: Present.

25 CHAIRMAN CHRISTIAN: Commissioner Dave

1 1/19/2023 - Monthly Meeting

2 Valesky?

3 COMMISSIONER VALESKY: Present.

4 CHAIRMAN CHRISTIAN: Commissioner John
5 Maggiore?

6 COMMISSIONER MAGGIORE: Present.

7 CHAIRMAN CHRISTIAN: Thank you. We'll
8 move to the regular agenda. Our first item for
9 discussion, Item 201 Case 14-M-0565 as it relates to
10 the implementation of a Phase 2 Arrears Reduction
11 Program. It will be presented today by Aric Rider,
12 deputy director of the Office of Consumer Services.
13 Richard Berkley, Alicia Sullivan, Tom Dwyer and Mike
14 Summa are available for questions. Aric, please
15 begin.

16 MR. RIDER: Good morning Chair
17 Christian -- good morning Chair Christian and
18 Commissioners. The draft order before you today
19 recommends the Commission provide relief --.

20 CHAIRMAN CHRISTIAN: One moment
21 please. Let's check our audio and make sure
22 everything's functioning. Mr. Rider, please
23 continue.

24 MR. RIDER: From the top.

25 CHAIRMAN CHRISTIAN: From the top.

1 1/19/2023 - Monthly Meeting

2 Thank you.

3 MR. RIDER: Good morning Chair
4 Christian and Commissioners. The draft order before
5 you today recommends the Commission provide relief to
6 struggling utility customers. As a result of the
7 COVID-19 pandemic, which has had a profound impact on
8 New York's utility customers, in June 2020 the State
9 imposed a moratorium on utility disconnections to
10 protect the health and safety of New Yorkers. The
11 moratorium protected residential customers from the
12 loss of vital utility services as they sheltered in
13 their homes. However, the moratorium resulted in
14 unprecedented growth in unpaid utility bills for what
15 I will refer to today as arrears.

16 Prior to the COVID-19 pandemic,
17 residential arrears greater than 60 days totaled \$677
18 million and non-residential arrears greater than 60
19 days totaled \$117 million. By April of 2022
20 residential arrears greater than 60 days totaled \$1.7
21 billion and nonresidential arrears greater than 60
22 days totaled \$647 million or it increased by 150% and
23 453% respectively.

24 This clearly indicates that many
25 customers experienced the negative financial impact

1 1/19/2023 - Monthly Meeting
2 of COVID-19. The commission decided to implement a
3 two-staged approach to address the arrears associated
4 with the moratorium on utility shut offs. On June
5 16th, 2022 the Commission issued an order authorizing
6 the Phase 1 arrears reduction program or Phase 1
7 order directing the gas and electric utilities to
8 apply credit to the accounts of residential low
9 income utility customers enrolled in utility bill
10 discount programs or what I will refer to as Energy
11 Affordability Program or E.A.P.

12 As of today, the Phase 1 program has
13 assisted nearly 340,000 residential E.A.P. customers
14 by providing about \$502 million in relief. 250
15 million of which was provided through an
16 appropriation included in the fiscal year 2022-2023
17 budget. The Commission's Phase 1 order acknowledged
18 a need to address the remaining arrears accumulated
19 during the COVID-19 pandemic and encouraged staff to
20 work with stakeholders to address those arrears
21 through a second proposal.

22 Unfortunately, the State's economic
23 recovery from the COVID-19 pandemic remains slow as
24 businesses continue to struggle to get back up and
25 running and some households are slow to recover from

1 1/19/2023 - Monthly Meeting
2 loss of income due to job losses, furloughs or under
3 employment. Further straining energy affordability
4 and the ability of customers and arrears to recover
5 and avoid service termination is the fact that
6 commodity prices rose sharply in 2022 for a variety
7 of reasons including the war in Ukraine.

8 To address the arrears problem, the
9 Energy Affordability Policy Working Group, or what I
10 will refer to as the Working Group, which is
11 comprised of multiple state agencies, utilities and
12 interested stakeholder groups has been working
13 diligently since issuance of the Phase 1 order
14 designing a solution.

15 CHAIRMAN CHRISTIAN: Aric, I'm going
16 to ask for you pause a moment.

17 MR. RIDER: Sure.

18 CHAIRMAN CHRISTIAN: Would the
19 Commissioners on the third floor please be so kind as
20 to mute their microphones? We're -- we're getting
21 quite a bit of feedback on the mics there. Thank
22 you.

23 MR. RIDER: The working group -- the
24 working group culminated on -- the working group's
25 work culminated on December 23rd, 2022 through the

1 1/19/2023 - Monthly Meeting
2 filing of the Phase 2 arrears report which presents
3 seven recommendations for commission consideration.
4 The following is a brief summary of the
5 recommendations and I will expand on each of these
6 later in the presentation.

7 One, implement -- implement a Phase 2
8 utility arrears relief program or what I will refer
9 to as the Phase 2 program that would provide one-time
10 arrears credits of approximately \$672 million across
11 the service territories of the major electric and gas
12 utilities. The one-time arrears credits would
13 provide some relief to all residential, non-low
14 income and small commercial customers in arrears
15 during the qualifying COVID-19 period which would
16 eliminate all arrears in this period for over 75% of
17 residential non-low income and small commercial
18 customers.

19 Two, the qualifying COVID-19 period
20 represents arrears held through May 1st, 2022 the
21 same period used with respect to the Phase 1 program.

22 Three, recommend a one-time credit
23 which is subject to an up-to cap for each utility.

24 Four, provide automatic relief without
25 the need for an application.

1 1/19/2023 - Monthly Meeting

2 Five, allow reinstatement of service
3 through June 30th, 2023 of accounts held by
4 residential non-low income customers who previously
5 had their service terminated in 2022 for nonpayment
6 so that their eligible arrears might be resolved.

7 Six, require the utilities proposing
8 an uncollectable reconciliation when -- within the
9 context of this proceeding to make a filing with the
10 Commission to address the potential for over or under
11 collection of such expenses.

12 And, seven, suspend residential
13 terminations of service for nonpayment while the
14 credits are being applied to accounts for the period
15 through March 1st, 2023 or 30 days after credits have
16 been applied by the incumbent utility, whichever is
17 later.

18 The draft order recommends the
19 Commission adopt the Phase 2 arrears reports
20 recommendation to provide immediate and automatic
21 arrears relief for residential non-low income
22 customers and small commercial customers. The
23 application of the Phase 2 program credits will help
24 most eligible customers move past their COVID period
25 utility arrears and allow all customers in arrears to

1 1/19/2023 - Monthly Meeting
2 enter into more affordable deferred payment
3 agreements to avoid termination. The course of
4 action is less expensive than maintaining the status
5 quo and allows the Commission to proactively manage
6 the Phase 2 program's bill impacts to customers.

7 The Phase 2 arrears reported indicated
8 that the Statewide estimates for the cost of
9 maintaining the status quo or what the Phase 2
10 arrears report calls inaction range from 1.011
11 billion to 1.346 billion. It is important to
12 understand what is meant here by inaction. As
13 explained in the arrears, in the Phase 2 arrears
14 report, inaction means not adopting an arrears relief
15 program for residential non-low income and small
16 commercial customers, leaving the balances held by
17 these customers to be addressed through the utility
18 collections and termination processes.

19 To evaluate the reasonableness of the
20 Phase 2 program, the working group compared having
21 the utilities taking an alternative course of action
22 to the cost of inaction and designed a Phase 2
23 program with the aggregate cost of 1.010 billion
24 which is at or below the lowest projected cost of
25 inaction. Furthermore, this proposed solution is

1 1/19/2023 - Monthly Meeting

2 widely supported by the stakeholders that have been
3 involved in the working group and equitably balances
4 the interest of customers that are economically
5 distressed and struggling to afford their utility
6 bills against the overall cost to all ratepayers of
7 providing such relief to customers.

8 The draft order recommends the
9 Commission adopt the proposed Phase 2 program,
10 however, it -- it's important to explain that all
11 customers that receive the Phase 2 credit will
12 continue to have some arrears after the credit is
13 applied. The purpose of the Phase 2 program is to
14 better position customers to manage their utility
15 bills going forward and allow them to enter into more
16 affordable deferred payment agreements to avoid
17 terminations of service.

18 Next I will explain the Phase 2
19 program and some of the specific recommendations
20 included in the draft order. The draft order
21 recommends that all residential non-low income
22 customers and certain small commercial customers that
23 have accrued arrears resulting from the COVID-19
24 pandemic be provided relief. The draft order
25 recommends the Commission adopt the Phase 2 arrears

1 1/19/2023 - Monthly Meeting
2 report definition of small commercial customers for
3 the purpose of determining eligible small commercial
4 customers because such definition is simple to
5 administer, requires no customer application and
6 requires no prior verification of data.

7 The draft order recommends the
8 Commission find that an application process to
9 identify eligible customers would be unduly expensive
10 and administratively burdensome to implement and thus
11 should not be used. Rather the draft order
12 recommends the approach proposed in the Phase 2
13 arrears report that the Phase 2 program be consistent
14 with the Phase 1 program and be applied automatically
15 as to allow relief to cut -- reach customers as
16 quickly and cost effectively as possible.

17 The draft order recommends that the
18 eligibility screens used by the working group to
19 determine financial need for customers in arrears are
20 reasonable and guard against residential non-low
21 income and small commercial customers that may not
22 need relief receiving a credit. The eligibility
23 criteria used to screen customers to determine
24 financial need included customers that, one, have
25 received multiple disconnect notices that were left

1 1/19/2023 - Monthly Meeting
2 unresolved. Two, with an active payment agreement.
3 Three, that are coded as either blind, elderly or
4 disabled or as life-support equipment user. Or,
5 four, that have submitted a financial assistance
6 assentation under the COVID-19 moratorium law.

7 The draft order recommends the
8 analysis undertaken with respect to customer
9 eligibility sufficiently demonstrates that the
10 overwhelming majority of residential non-low income
11 and small commercial customers with arrears within
12 the cover period are in need of financial relief.

13 Regarding residential non-low income
14 customers who had their service disconnected for
15 payment in 2022, the draft order recommends that
16 those customers be allowed the opportunity to have
17 their service reinstated through June 30th, 2023 and
18 this will provide and allow more equitable treatment
19 of customers regardless of when utilities began their
20 collection processes.

21 Regarding the eligibility of eligible
22 arrears and the arrears credits to be applied to
23 those arrears, the draft order recommends that the
24 same definition of eligible arrears be used as in the
25 Phase 1 program and that the covered period aligned

1 1/19/2023 - Monthly Meeting
2 with the adopted cover period from the Phase 1
3 program for consistency, to be fair, to streamline
4 the administration of the program and to make the
5 Phase 2 program easy to understand for customers.
6 The provision is reasonable because only a small
7 portion of customers' arrears still remain prior to
8 the beginning of the pandemic.

9 To balance the overall cost of the
10 Phase 2 program that is borne by all ratepayers with
11 providing meaningful and swift support to customers
12 more than seven months behind on paying their utility
13 bills, the draft order recommends the Commission
14 adopt a cap on the up-to credit for eligible customer
15 or arrears. The Phase 2 report recommends that --
16 that the cap of the up-to credit for each utility be
17 set at an amount per utility where at least 75% of
18 eligible accounts would have their covered arrears
19 fully resolved.

20 The Phase 2 report notes, however,
21 that a different approach is necessary for Con Edison
22 and KEDNY. Specifically, Con Edison and KEDNY would
23 maintain significantly higher arrears on a percentage
24 basis than the State's other regulated utilities
25 under the scenario where full arrears relief is

1 1/19/2023 - Monthly Meeting
2 provided for 75% of eligible New York City based
3 customers. The Phase 2 report thus recommends that a
4 higher percentage of Con Edison and KEDNY customers
5 receive full relief for arrears accrued through May
6 1st, 2022.

7 The draft order recommends the
8 Commission establish the recommended up-to credit
9 caps including the higher amounts for New York City
10 customers because they achieve the balance of
11 providing much needed financial relief to customers,
12 better align Con Edison and KEDNY's remaining arrears
13 on a percentage basis with the State's other
14 regulated utilities while keeping the overall program
15 costs below the more conservative costs of inaction
16 estimate.

17 The Phase 2 report states that the
18 utilities plan to apply program credits to eligible
19 customers as soon as practical with the goal of
20 providing the credit to the majority of customers
21 within 90 days of commission issuance of an order.
22 To protect customers while credits are being issued
23 and to allow adequate time for the utilities to apply
24 the arrears relief credits, the draft order
25 recommends the utilities suspend residential

1 1/19/2023 - Monthly Meeting

2 terminations while credits are being applied to
3 accounts through March 1st, 2023 or 30 days after
4 credits have been applied to the account, whichever
5 is later.

6 The Phase 2 report estimates that the
7 Statewide cost of the Phase 2 program arrears credits
8 is \$672 million which would provide relief to more
9 than 478,000 residential non-low income customer
10 accounts and more than 56,000 small commercial
11 accounts. These credits combined with the \$169
12 million in carrying costs and the \$169 million in
13 residual incremental arrears encompass the total cost
14 of the action pathway of 1.010 billion.

15 Of note there will be no
16 administrative cost associated with the approach
17 recommended here because there are no applications,
18 and the one-time credit is automatically applied to
19 eligible customers bills. The initial cost to be
20 recovered from customers is approximately 841
21 million. However, the Phase 2 report proposes that
22 the cost of the Phase 2 program be lowered by using
23 approximately \$11.1 million in previously collected
24 economic development funds and \$5 million dollars in
25 deferred low-income program funds for National Fuel.

1 1/19/2023 - Monthly Meeting

2 The draft order recommends the use of
3 the deferred economic development and low-income
4 program funds to mitigate the cost of the Phase 2
5 program lowering the cost statewide to be recovered
6 from customers to \$824 million. The Phase 2 arrears
7 report explained that the combination of the Phase 1
8 and Phase 2 programs could be broad enough to
9 materially lower the uncollectible expenses included
10 in utilities rate plans. Several utilities are
11 already authorized to reconcile their uncollectable
12 expenses or are pursuing a reconcile --
13 reconciliation in their rate proceedings.

14 However, National Grid and National
15 Fuel do not have such reconciliation mechanisms and
16 that proposed and uncollectible expense
17 reconciliation mechanism in the context of this
18 proceeding. The draft order recommends directing
19 National Grid and National Fuel to make a filing with
20 the Commission no later than 30 days from the
21 effective date of this order describing the proposed
22 mechanism because of the complexity of the analysis
23 required to -- and more time for staff review.

24 The other offsets these companies
25 proposed to lower the -- the cost of the Phase 2

1 1/19/2023 - Monthly Meeting
2 program will be addressed when the Commission
3 addresses these petitions. The draft order
4 recommends the utilities be allowed to recover the
5 Phase 2 program costs through a surcharge up to the
6 estimated program budget. The -- the proposed
7 recovery is consistent with the methodology the
8 Commission adopted for Phase 1 program costs and
9 minimizes the bill impacts to approximately 0.5% by
10 recovering the program costs over time.

11 In the Phase 1 order the Commission
12 noted that the arrears to be addressed in Phase 2 are
13 likely to be significant, thus, material shareholder
14 contributions from the utilities will be necessary
15 toward resolving those arrears. The utilities in
16 Phase 2 in aggregate have committed to provide over
17 \$101 million in shareholder contributions
18 representing the carrying costs associated with the
19 incremental arrears through calendar year 2022. This
20 contribution is on top of the utility shareholder
21 contributions of \$36.2 million made in the context of
22 the Phase 1 program.

23 Several members of the working group
24 expressed concerns regarding the level of shareholder
25 contributions being committed to addressing the

1 1/19/2023 - Monthly Meeting

2 arrears accrued by residential and non-low income or
3 by residential non-low income and small commercial
4 customers. Stakeholders propose that shareholders
5 contribute more to the Phase 2 arrears relief credits
6 and related carrying costs.

7 The utilities assert that they have
8 provided significant shareholder funds that far
9 exceed what has been done in other jurisdictions.
10 The utilities argue that any additional shareholder
11 contributions would result in a reduction to each
12 utility's credit quality metrics and negatively
13 impact how the investment community views New York
14 regulatory environment leading to an increase in the
15 cost of capital that would ultimately be borne by
16 customers.

17 The draft order recommends the \$101
18 million shareholder contribution is an equitable
19 resolution of the arrearage problem between
20 shareholders and customers. The draft order
21 recommends the balance struck between shareholder
22 contributions and utilization of other deferrals on
23 the one hand and ratepayer contributions on the other
24 achieves historic and significant arrears relief
25 statewide and lowers overall future costs to

1 1/19/2023 - Monthly Meeting

2 ratepayers statewide without imposing undue burdens
3 upon ratepayers.

4 The draft order recommends the
5 utilities be required to verify by each utility's
6 chief operating officer all reports and financial
7 data submitted to the secretary to the Commission
8 because the actions taken in the draft order are made
9 in reliance upon the accuracy of the data submitted
10 by the utilities. As stated earlier, all customers
11 after the application of the relief will have arrears
12 after May 1, 2022. To deal with those remaining
13 arrears, deferred payment agreements are used to
14 manage customers' past bills and retain vital energy
15 service.

16 Under the Home Energy Fair Practices
17 Act or HEFPA utilities must offer deferred payment
18 agreements that are tailored to the customer's
19 financial circumstances and with deferred payment
20 agreement terms as low as zero down payment with \$10
21 per month payments. The draft order recommends the
22 utilities make improvements to their communications
23 surrounding deferred payment agreement offerings
24 within 30 days of the effective date of this order.

25 The Phase 2 arrears report includes

1 1/19/2023 - Monthly Meeting
2 plans for a multi-pronged outreach effort designed to
3 foster customer understanding of the Phase 2 program
4 up-to credit the eligibility criteria, the applicable
5 arrears and the applicable arrears time frame. The
6 working group members intend to utilize multiple
7 outreach and education channels including but not
8 limited to bill inserts, letters, social media and
9 postings on individual websites. Also the utilities
10 will continue their communication efforts regarding
11 information about payment assistance including
12 deferred payment agreements.

13 In conclusion, the pandemic resulted
14 in billions of dollars' worth of utility arrears.
15 The draft order recommends the Commission take action
16 and adopt the Phase 2 program to resolve the
17 remaining utility arrears that have accrued through
18 May 1, 2022. After the one time credits are applied
19 to accounts and the pause on residential terminations
20 are ended, the utilities can restore normal
21 collection processes. The working group will remain
22 intact for the purpose of monitoring the Phase 1 and
23 Phase 2 programs and otherwise will consider
24 additional measures to advance utility bill and
25 affordability in New York. That concludes my

1 1/19/2023 - Monthly Meeting

2 presentation and staff is available for questions.

3 CHAIRMAN CHRISTIAN: Thank you, Aric.

4 Appreciate the presentation. I'm happy with what's

5 before us today in this order because these efforts

6 to address the arrears build out a long history of

7 the Commission's efforts to ensure customers have

8 continued access to energy services during periods of

9 financial hardship. I think you used the word

10 historic and I think that's an accurate description

11 of what's before us today.

12 The challenge created by COVID-19 has

13 most certainly been historic and created some

14 unprecedented challenges, and I think the work that

15 you've done over the past two years both for Phase 1

16 and Phase 2 today have risen to the occasion and in

17 many ways represent a standard for addressing these

18 challenges raised through the pandemic. So I want to

19 thank you for your efforts. It's been a hard, long

20 process and I'm encouraged to hear that many of the

21 participants and those engaged in the process support

22 what you have before us today. So I think this is in

23 the public interest and you have my full support and

24 I appreciate it. Thank you. And we'll go now to

25 Commissioner Burman.

1 1/19/2023 - Monthly Meeting

2 COMMISSIONER BURMAN: Thank you so
3 much. I do appreciate the presentation. I -- I just
4 have a couple of things, couple questions. But first
5 I just want to say the report that was issued and
6 filed the consensus report I really have a -- a great
7 deal of support for it in the fact that, for me, this
8 report in the way it was done both from a process
9 perspective but then put together really sort of
10 resonated. There was a lot of engagement with the
11 working group meeting -- significant amount of time.
12 And the report doesn't just sort of give us the
13 results of where the consensus was. It actually kind
14 of walks through where folks positions were, and the
15 challenges so that you felt like, at least I felt
16 like, I could really fully understand each position
17 and then perhaps even when folks might have pivoted
18 in their original position.

19 And so it -- it gave us or gave me a
20 snapshot into kind of the challenges that were going
21 on and how the collaboration worked to get to where
22 folks were. And -- and also then had certain
23 attachments that were related to things that were
24 looked at in the working group. And -- and I found
25 that very valuable. And, frankly, I feel that it is

1 1/19/2023 - Monthly Meeting

2 a good model going forward in other areas for us to
3 explore.

4 Many times we might get, you know, a
5 staff white paper or consensus report and it misses a
6 lot of the other stuff. And then it's incumbent upon
7 others to try to pull out of that things that are
8 more nuanced or explaining where folks are. And you
9 didn't really have to do that just by diving into the
10 report. That in and of itself gave me a sense of
11 things, and -- and I want to -- so I want to say
12 kudos to all the folks who clearly worked hard on
13 this. And kudos to what seems like perhaps at times
14 was a very difficult conversations in the working
15 group, but clearly folks were engaged together to
16 come up with solutions that were workable. And --
17 and even if it was not perfect they sort of came
18 together on that. And -- and I think that's a really
19 a good model. So I just want to highlight that.

20 Now a couple of things. There was a
21 lot of focus on the fact that there's not state
22 funding as of now. And A.A.R.P. submitted a letter
23 to the Commission on the Phase 2 arrears relief
24 report and continues to -- stating and I'll just put
25 out the parts that are important to this, we continue

1 1/19/2023 - Monthly Meeting
2 to assert the approach is the best path forward
3 absent any state funding. So they're okay with this
4 because there's no state funding but they're really
5 looking to the State funding.

6 And they say the utilities claim
7 without evidence that they would suffer a ratings
8 downgrade if they contributed any amount to pay down
9 the 735 million principal and that goes to the sort
10 of the shareholder contribution. And I guess, for
11 me, those two things are very related because we are
12 asking for it through this it is the utility
13 customers who have to -- we have to collect from to
14 be able to -- to do this -- this Phase 2 program.
15 And recognizing that there's also a proposal before
16 or will be in the budget from the governor for some
17 state funding, you know, related to -- to things is I
18 think important.

19 And for me it is -- is A.A.R.P.
20 correct in saying that the utilities claim without
21 evidence that they would suffer a ratings downgrade.
22 And I think that the order, the draft order before us
23 tries to sort of highlight the concerns around that.
24 But I would like staff to speak to a little bit about
25 that, and I don't know if that's Jeff Hogan on that

1 1/19/2023 - Monthly Meeting

2 issue.

3 MR. HOGAN: Sure, Commissioner, I can
4 -- I can speak to that. So I don't think there's any
5 doubt that the credit rating agencies have been very
6 concerned with the -- with the overhang of this large
7 level of arrears not only in New York but throughout
8 the entire country. It's mentioned repeatedly in
9 reports focusing on New York. Both S&P and Moody's
10 have repeatedly mentioned the large amount of arrears
11 as a what we call a drag on credit. It's very
12 difficult to pinpoint one thing that would cause a
13 downgrade.

14 So I think that any statement that
15 said that this will definitely lead to a downgrade or
16 this would definitely lead to an upgrade or
17 definitely save us and keep us from being downgraded
18 has to be taken with a grain a salt. I think you
19 talk about how things are weighted. So you have, in
20 this case, you have a situation where the company's
21 not collecting their past carrying charges, the \$101
22 million contribution they're giving will be a slight
23 credit negative to them.

24 It will be a slight impact on them.

25 But -- but it will be a very large credit positive

1 1/19/2023 - Monthly Meeting
2 for this large arrears issue to mostly be solved
3 through the -- through the program credits as well as
4 allowing customers who have been freed from a lot of
5 their amounts that they owed to have D.P.A.s to -- to
6 pay off the remaining balances and those arrears to
7 be taken care of. All that will be seen as a very
8 credit positive thing. So but as far as A.A.R.P.'s
9 comment, I think there's no doubt that the credit
10 rating agencies have -- have large concerns and could
11 lead to downgrades by itself and or with other --
12 other aspects.

13 COMMISSIONER BURMAN: Okay. Great.
14 Thank you. I think that's a really important point.
15 I do agree with your comments, and I'm just
16 highlighting because I do think that it is important
17 for us to clearly address those concerns because it
18 is something that we need to -- to really be careful
19 of because a utility downgrade does have negative
20 consequences for the customers themselves ultimately.
21 And that's something that I think we have to -- we
22 struggle with.

23 And I do think that for many of the
24 stakeholders in the working group the next -- the
25 next focus will be on state funding in the budget

1 1/19/2023 - Monthly Meeting
2 this year and what that looks like. I do think that
3 we do have to also do our due diligence in reminding
4 the legislature and others about the fact that this
5 and what we're doing is a one-time credit, is a one-
6 time regulatory solution. And it doesn't mean that
7 they can say well, we don't have to do it in the
8 budget, we'll just look to tell the P.S.C. to do more
9 going forward.

10 And I think we really have to be very
11 mindful of people understanding why that is. What
12 the ramifications could be. Here in this case the
13 utilities also voluntarily stepped up in shareholder
14 contributions in unprecedented amounts, and they have
15 to really careful about the value and in how much
16 they give as well. But I don't think it's something
17 that we could appropriately mandate them to do. It
18 would probably put us in a significant litigation
19 risk and in a sense, you know, it would really kind
20 of have unintended consequences. So I just share
21 that.

22 And also the most recent B.O.A.
23 securities global research analysis, and this is
24 really kind of flagged for me the A.A.R.P. letter and
25 sort of addressing the State funding with the -- with

1 1/19/2023 - Monthly Meeting
2 the shareholder contributions, is -- this is -- I'm
3 just going to read a snapshot, New York Governor
4 Kathy Hochul announced an energy relief plan that
5 would deliver \$200 million of state funded utility
6 bill relief to over 800,000 New York households. The
7 plan would support ratepayers earning under \$75,000 a
8 year that are currently ineligible for New York's
9 existing utility discount program.

10 Two hundred million in bill relief to
11 800,000 households implies \$250 a year in relief or
12 approximately \$20 per month. It then goes on to say
13 critically the plan is government funded so offers
14 customer relief, and they contrast that relief to
15 another state's relief plan which stipulates utility
16 funded customer rate relief implying a direct hit to
17 that state's utility earnings. And so they see the
18 New York relief plan proposed by the governor as a
19 net positive for New York utilities including Con
20 Edison, AVANGRID and Fortis.

21 And then it goes on to say
22 accelerating affordability issues in the northeast
23 remains a key area of investor concern, and state
24 funded relief may alleviate some pressure at no
25 expense to the utility which could result in more

1 1/19/2023 - Monthly Meeting
2 constructive New York regulatory decisions and
3 political backdrop and it goes on. So I point that
4 out because I think this sort of gets to the heart of
5 why we have to be cautious and why when we're looking
6 for that, you know, this is really something that
7 this being sort of laser focused on which is, you
8 know, how are you paying for things, what is going to
9 be the effect and what are the regulatory challenges
10 then and -- and what that means going forward. So
11 this sort of applies across the board, and I just
12 highlight that so thank you.

13 The other thing is I -- I wanted to
14 also highlight and -- and thank we have a July 2022
15 economic and policy insights report that was done by
16 the Comptroller DiNapoli on the distribution of
17 utility arrears in New York State. I know that our
18 Department of Public Service staff worked in working
19 with them to give them a lot of information and then
20 they issued a report which I think really aligns with
21 a lot of what we did in Phase 1 and Phase 2 and, you
22 know, sort of just overall the arrears issue and the
23 affordability issue.

24 And I just want to read the shortly
25 the conclusion that they -- that the comptroller's

1 1/19/2023 - Monthly Meeting
2 report stated because I think it's really important
3 for us. It says the COVID-19 pandemic has led to an
4 increase in the number of utility customers having
5 trouble paying for utility service and the amount
6 owed. In addition, a review of utility reports filed
7 with the D.P.S. shows us significant numbers of
8 utility customers were in arrears prior to the
9 effects of the pandemic. The P.S.C. has adopted a
10 program to address low-income customer arrears that
11 have accumulated over the course of the pandemic.
12 That's Phase 1. But a significant amount of arrears
13 will remain.

14 These arrears may ultimately result in
15 service shutoffs. The situation is economically
16 stressful for households as the P.S.C. and the
17 legislature continue to consider mechanisms to reduce
18 the arrears that accumulated over the pandemic, they
19 should also consider additional prudent steps to
20 reduce the number of utility customers that cannot
21 pay their utility bills.

22 I thought that was a very well-
23 reasoned, sound and thoughtful sort of wrap up to how
24 do we also go forward. So we address the Phase 1,
25 we're addressing the comptroller's concerns in Phase

1 1/19/2023 - Monthly Meeting
2 2 and this is really now the end of our financial
3 resolution for the COVID relief. But it doesn't mean
4 that there are not going to need to be additional
5 prudent steps as we go forward that are looking more
6 holistically about how do we reduce the number of
7 utility customers that cannot pay their utility bills
8 and perhaps what we're doing if we are now sort of
9 going back into the status quo of the next phase.

10 And being mindful that we saw and --
11 and, you know, when you first spoke you talked about
12 how the moratorium while it protected residential
13 customers from the loss of vital utility services.
14 And also the moratorium resulted in unprecedented
15 growth in unpaid utility bills. So for me that
16 unintended consequence of the moratorium perhaps
17 being tied to an increase in the arrears is something
18 that I -- I think we need to be mindful of, and I
19 wonder if you have any thoughts on sort of the next
20 steps especially as it relates to making sure that
21 customers fully understand and fully understand that
22 this is a one-time resolution.

23 MR. RIDER: So, Commissioner Burman, I
24 guess I'd start by saying maybe a year plus now we --
25 the staff looked at the current energy affordability

1 1/19/2023 - Monthly Meeting
2 programs and we put forth some recommendations from
3 the Commission that actually improved the workings of
4 the energy affordability programs moving forward.
5 That work has -- has -- has paused because we're
6 dealing with the arrears crisis but will be picked up
7 in the working group.

8 There's a list of priorities that the
9 working group is -- is looking at now and we will be
10 laser focused on how to improve that program moving
11 forward with the things that we can control. You
12 know, there's -- there's issues like identifying
13 customers, and -- and we can try to make improvements
14 there but we -- we need to have some help and in
15 terms of, you know, expanding that eligibility.

16 In terms of the Phase 2 program the
17 work -- I'll start by saying that in the Phase 1
18 program the working group actually worked together to
19 come up with a common message that could be utilized
20 by all stakeholders so that we had a consistent
21 message statewide and -- and tried to make the
22 messaging very simple. That same process will be
23 used for Phase 2. We'll work collaboratively and
24 we'll try to get a consistent message so that there's
25 an understanding, a common understanding of the Phase

1 1/19/2023 - Monthly Meeting

2 program.

3 COMMISSIONER BURMAN: Okay. Great.

4 Thank you. Appreciate -- thank you I appreciate
5 that. And then my -- my last comment before I wrap
6 it up is related to LIPA and PSE&G. And I do
7 recognize that we don't regulate LIPA and PSE&G as
8 P.S.C. as a commission as a whole. However, it -- it
9 -- I do note that they did participate in this
10 working group and also what LIPA and PSE&G do is
11 relevant to us understanding across the board from a
12 state perspective. And I find that -- well, let me
13 read what -- what it stated in the report because I
14 think it -- it clearly leads to me having some
15 concerns.

16 So LIPA and its contractor PSE&G Long
17 Island participate in the working group's discussions
18 and consideration of a Phase 2 arrears relief
19 program. Then goes on to talk about LIPA is a not-
20 for-profit, public power utility, et cetera. And
21 it's not subject to the jurisdiction of the
22 Commission. LIPA's staff is supportive of the
23 outcome summarized in this report and intends to
24 propose a Phase 2 arrears relief program to LIPA's
25 board for its consideration in the first quarter of

1 1/19/2023 - Monthly Meeting
2 2023. LIPA's Phase 2 proposal will follow the same
3 general parameters as the Phase 2 programs proposed
4 by the J.U., joint utilities and will target
5 elimination of all COVID period arrears for at least
6 75% of residential non E.A.P. and small commercial
7 customers.

8 And then this is where I got
9 concerned. LIPA's structure as a not-for-profit
10 public power utility allows it to provide service to
11 customers at a lower cost. Because LIPA does not
12 have shareholders our Phase 2 proposal will not be
13 supplemented by shareholder contributions. However,
14 we expect to provide comparable relief to Phase 2
15 eligible customers while minimizing the impact of
16 nonparticipating customers by utilizing our existing
17 bad debt reserve and recovering additional costs over
18 time. And then it goes on.

19 I take pause because it -- I find it
20 incredulous that they are waiting till after we act
21 to start and they talk about how they're going to
22 have interest to stakeholders. We'll have an
23 opportunity to submit comments on the LIPA's Phase 2
24 proposal in writing and speak directly to LIPA's
25 board when it considers the proposal, et cetera.

1 1/19/2023 - Monthly Meeting
2 They should have already started the proceeding.
3 They could have made sure that they were aligning
4 themselves so that they would be ready to go in real
5 time right after we decided what we were doing if
6 they wanted to wait just to make sure. But there's
7 no reason that it had to wait to start the
8 proceeding, start the comment period until after we
9 act.

10 That just delays and I don't think
11 that's fair. Moreover I find it incredulous that
12 they are talking without having submitted and we
13 should have an apples-to-apples comparison on what
14 they're -- what it would have looked like if they
15 were going to do it under here today so that even if
16 they were to do something different we could
17 understand it. But perhaps it could have been
18 helpful to the other utilities and the shareholder,
19 stakeholders who were involved in the working group
20 to perhaps think well maybe that's something that
21 would be help -- more helpful here.

22 Or maybe we'll do it some kind of
23 other way or some hybrid way. And also to the extent
24 that you have all the people in the room already who
25 are invested in sharing, that that sharing of

1 1/19/2023 - Monthly Meeting

2 information during that time period, even if it was
3 having to be a little bit separate because they had
4 to also have the LIPA board, it's no reason that it
5 could not have been done simultaneously and -- and
6 that leaves me frustrated.

7 And also I don't buy that they say --
8 are saying that they don't have shareholders so that
9 they, you know, can't look at the shareholder
10 contributions. And if PSE&G Long Island and they
11 could engage in that and PSE&G Long Island could have
12 submitted comments themselves and participated in a
13 voluntary way in a way that would give us today
14 information on what they may or may not do.

15 So I just, you know, I'm troubled.
16 This is not the first time and it continues to happen
17 with LIPA and PSE&G Long Island that they wait and
18 then they pick and choose, you know, what they are or
19 aren't going to do. And -- and it -- it kind of gets
20 lost after the fact. And for me it's important
21 enough that I just am disappointed. So that's --
22 that's where I sit on that.

23 Overall I'm really pleased. I'm going
24 to be voting in favor of this. I know that this is
25 going to be really a lot of work now for staff and

1 1/19/2023 - Monthly Meeting

2 the stakeholders in making sure that we are carefully
3 doing it in a way that is communicating effectively
4 to the affected customers and to making sure that we
5 are -- are being very responsive to any issues that
6 may be there. So thank you so much.

7 CHAIRMAN CHRISTIAN: Thank you,
8 Commissioner Burman. Commissioner Alesi?

9 COMMISSIONER ALESI: Thank you, Mr.
10 Chairman. This is a remarkable joint effort. An
11 earlier plan to help people in some small businesses
12 who literally had no ability to pay due to the
13 devastation of the worldwide pandemic. The union of
14 utilities, ratepayers and even shareholders presents
15 us with the opportunity to provide a rational and
16 fiscally sound roadmap to immediately help those in
17 arrears as well as to help utilities on a longer term
18 basis.

19 This was a very humanitarian --
20 testament to the brilliant and compassionate hard
21 work of the department as well as the members of the
22 working group. I'm going to take a risk here because
23 I think I'm quoting Richard Berkley, one of our
24 esteemed members of the department, when he said more
25 would be better but more is not always possible.

1 1/19/2023 - Monthly Meeting

2 That's true but this is pretty darn good and I'll be
3 voting yes.

4 CHAIRMAN CHRISTIAN: Thank you,
5 Commissioner Alesi. Commissioner Edwards.

6 COMMISSIONER EDWARDS: Well, thank you
7 very much, Chair and Aric for your really
8 comprehensive report. There has been -- there's
9 always been good days being on the Commission. I
10 will tell you that this is probably one of my best
11 days. What happened here with COVID and the words
12 that you used, Aric, was historic, significant,
13 profound, intense and I believe that this action had
14 to match those words, historic, significant, profound
15 and intense. And I think that this is what this
16 does.

17 Just reading and just emphasizing a
18 couple of the things that you said in the report is
19 that, you know, economic recovery some were already
20 behind before COVID. So even though that they
21 recovered, they recovered up to a point of still
22 being behind. Just reading on what you said
23 unfortunately the State's economic recovery from
24 COVID remains slow as businesses continue to struggle
25 to get back up and running, and some households are

1 1/19/2023 - Monthly Meeting

2 slow to recover from the loss of income due to job
3 losses, furloughs and unemployment.

4 That is true. And emphasizing again
5 the cost of action is less expensive than maintaining
6 the status quo and allows the Commission to
7 proactively manage the Phase 2 program built impacts
8 to the customers. And then lastly that is widely
9 supported by stakeholders that have been involved in
10 the working groups and equitably balances the
11 interests of customers that are economically
12 distressed and struggling to afford their utility
13 bills against an overall cost to all ratepayers on
14 providing such relief to customers.

15 This helping over 478,000 residences
16 and -- and business is a really good thing. It is
17 thoughtful, detailed, it's balanced. It is
18 absolutely necessary and I am really glad to be part
19 of this today. I am excited to vote to help as many
20 people as possible in a balanced way.

21 I do want to just emphasize
22 Commissioner Burman's comments on LIPA PSE&G. If
23 there's anyone that is hesitant, if there's anyone
24 that doesn't understand the need for this commission
25 to regulate utilities they should look no further

1 1/19/2023 - Monthly Meeting

2 than what did not occur with LIPA and PSE&G and how
3 we are now waiting for them to decide to take action.
4 Look no further to why we need this commission to
5 regulate utilities. Look no further. Thank you very
6 much.

7 CHAIRMAN CHRISTIAN: Thank you
8 Commissioner. Commissioner Howard.

9 COMMISSIONER HOWARD: Thank you.
10 Thank you, Aric and Richard and team for a job well
11 done. In a -- splitting this baby was no easy task.
12 You know the -- the phrase unprecedented is used
13 multiple times by you, Aric and everybody surrounding
14 this issue. I think one of the things that maybe
15 needs to be reemphasized or at least can you describe
16 the nature of the moratorium adopted by the
17 legislature in terms of what particular impact that
18 may have had to add to this, you know, and in how
19 long it was and -- and just we could opine about that
20 and how it affects the situation we're in today?

21 MR. BERKLEY: Thank you, Commissioner.

22 MR. BERKLEY: Thank you, Commissioner.

23 And it's a pleasure to talk about the moratorium
24 laws. So the legislative moratorium lasted
25 approximately 18 months in the State of New York. As

1 1/19/2023 - Monthly Meeting

2 we've discussed before, New York was the first and
3 actually only state to legislate a moratorium that
4 completely covered all utility service. At the time
5 that the State went into the legislative moratorium,
6 we were roughly \$780 million in arrears. Over the 18
7 plus months those arrears went by almost \$1 billion
8 in addition.

9 It is not possible to have a complete
10 confidence to say but for the moratorium we wouldn't
11 had that any part of that additional billion, but
12 they went up as Aric pointed out by more than 154%
13 over that time period.

14 COMMISSIONER HOWARD: Thank you. That
15 -- that gets to my next observation. You know, this
16 is not a knock on this particular program whatever,
17 but I do have concerns with maybe the tens of
18 thousands of customer who have not had to pay a bill
19 in a long time and the sociology that goes along with
20 that and the belief maybe they don't have to pay.
21 And then once they see this -- this -- this instant
22 credit happening, you know, that, well, I don't -- it
23 happened once I'll, you know, I will continue not to
24 pay.

25 So I think that communication on that

1 1/19/2023 - Monthly Meeting
2 level that this is it. That, you know -- you know,
3 the -- and -- and all stakeholders have to make sure
4 that customers understand that, you know, this is --
5 this is a one-time only offer. Unfortunately, I
6 think human nature is what -- oh, yeah, you did it
7 once you'll do it again. But, again, I think that is
8 why the -- the communication and particularly this
9 particular subgroup of customers, by their very
10 nature, are very difficult to communicate with.

11 The -- that often English language is
12 a difficult portion of this. Citizenship status, a
13 whole variety of impediments to getting real
14 communication to real folks. So I think as we go
15 forward the working group really, really needs to
16 focus on that and would love to see some interim or
17 relatively short term reports to the Commission about
18 how that's going. You know, that X number of
19 customers been contacted and -- and the like.

20 I'm also concerned this is problematic
21 with any program such as this is the issue of free
22 riders. While, you know, Aric you have described it,
23 it's going to be relatively small, under 5% we
24 believe, of customers who probably could have paid
25 but didn't. It -- it's concerning if it's -- it's

1 1/19/2023 - Monthly Meeting

2 any and it's -- even in a program of this magnitude
3 that's a lot of money too. So but, again, I think
4 that needs to be part of our broader communication
5 issue is that you got to at some point you need to --
6 to pay your bills because, let's face it, the
7 utilities did their job.

8 They delivered the electricity and gas
9 to customers and they used them in their homes and
10 businesses. That was not free. So now we are coming
11 to the point of how we have to reconcile that at all
12 levels from shareholders, credit rating agencies and
13 all balance of customers.

14 You know, so this actually points to
15 the more fundamental issue I think that we -- is why
16 we exist as a commission in -- in the first place.
17 It's the issue of energy affordability. And I'll
18 tell you straight up it's going to remain my personal
19 prime focus as a commissioner as has been from day
20 one. You know, upward pressure on customers' bills
21 regardless of whether it was because its when ... in
22 global energy inflation or the costs related to
23 decarbonization and C.L.C.P.A. mandates, all result
24 in making energy less affordable to the same subgroup
25 who couldn't pay under these very difficult

1 1/19/2023 - Monthly Meeting

2 circumstances.

3 And it makes energy less affordable by
4 -- for all ratepayers including residential,
5 commercial and industrial customers. So the issue of
6 affordability is not going away. This issue of this
7 interim bump that we're taking care of with this
8 massive unprecedented arrears issue doesn't change
9 the fundamental of a -- of the issue of energy
10 affordability going forward.

11 So, again, good work on this. But,
12 again, you -- we will be back at this table having
13 another discussion on energy affordability very
14 quickly. And -- and as each case comes before this
15 commission I will make it my personal goal to make
16 sure that we understand them in full context. That
17 any pressure on upward bills, regardless of how
18 positive they are in the public domain and -- and its
19 ultimate outcome, still people have to be able to
20 afford their bills.

21 So thank you, again. I really look
22 forward to this and I really look forward to seeing
23 some near term response on how this is going and then
24 particularly how many hard contacts have been made by
25 either utilities or not-for-profits or other state --

1 1/19/2023 - Monthly Meeting

2 state or local agencies. But thank you and -- and
3 good work.

4 CHAIRMAN CHRISTIAN: Thank you,
5 Commissioner. Commissioner Valesky.

6 COMMISSIONER VALESKY: Thank you, Mr.
7 Chairman. I just have a couple of relatively brief
8 additions to what has already been shared by my
9 colleagues before me. The first has to do with the
10 shareholder contribution issue that Commissioner
11 Burman raised. I know there were certainly concerns
12 from those who entered comments in the record. Could
13 there or should there been more done in -- in that
14 area. I know that your working group itself talked
15 about that I'm -- I'm sure quite extensively.

16 I just wanted to add to the -- the
17 question that Jeff Hogan answered Commissioner Burman
18 in regard to credit. And I think this is an
19 important addition as well. Aric, you -- you
20 mentioned in your presentation, I'm sure it's in the
21 order as well, where you say that the utilities
22 assert that they have provided significant
23 shareholder funds that far exceed what has been done
24 in other jurisdictions. I think that's an important
25 point that should not be lost in all of this, and I'm

1 1/19/2023 - Monthly Meeting

2 sure you fact checked that with other jurisdictions.

3 I -- I take to mean other states and
4 the pandemic obviously affected all 50 states. But
5 each state chose to address this issue differently.
6 So I think that's a -- it's an important point to
7 raise that -- that what has been done here, and I --
8 I happen to think in no -- no small part due to the
9 cooperative working relationship that all of you have
10 developed with the utilities over -- over time has --
11 has certainly helped make that a reality. So I
12 wanted to -- to point that out.

13 Another thing I wanted to raise in
14 regard to your -- the -- the challenge that you had
15 before you, all of you can be summarized in at least
16 two ways as I look at the differences between the
17 challenges that you had in Phase 1 versus the
18 challenges that you had here in Phase 2. This was a
19 much more difficult task that you and the working
20 group had before you for at least two reasons. One,
21 the universe of Phase 1 was relatively well -- well-
22 designed already. Those residential customers who
23 had enrolled previously in discount programs. So the
24 -- the four walls were already built. You had to
25 sort of create that in this -- in this Phase 2

1 1/19/2023 - Monthly Meeting
2 program in a way that was most fair, most equitable,
3 and I think you did a tremendous job there.

4 The other issue, which is most
5 certainly not insignificant in any way, shape or form
6 is that Phase 1, as we all recall, had \$250 million
7 in general fund support from the legislature and the
8 governor. That's a significant sum of money that you
9 did not have to apply to Phase 2. Didn't have any
10 funds from that -- from that -- from that source. So
11 you really did have to create this from the ground up
12 in many different ways, and I think that's a
13 testament to -- to the work that you have all done,
14 to the work that the working group did.

15 And I also appreciate the fact that
16 you mention, Aric, at the end of your presentation
17 that that working group will remain intact so that
18 going forward to monitor both Phase 1 and Phase 2 in
19 its performance, I think that's a really important
20 thing and gives us assurance as well here as
21 commissioners in terms of -- of how the -- of how the
22 programs will be administered going forward. So
23 thanks again and congratulations on a great job.

24 CHAIRMAN CHRISTIAN: Thank you,
25 Commissioner. Commissioner Maggiore.

1 1/19/2023 - Monthly Meeting

2 COMMISSIONER MAGGIORE: Thank you very
3 much. And thank you for the presentation and the
4 very thorough report. I do have some questions and
5 I'm just asking these questions because I think there
6 is value in having a discussion in the public
7 session. The first two have to do with I'm going to
8 ask you to expand on a couple things that you
9 mentioned during the presentation. And I'll start
10 with this.

11 Some of the public comments that we
12 received in the record I would characterize as asking
13 the question why do I have to help pay somebody
14 else's bill. And you mentioned that the cost of
15 inaction and action cost ratepayers ... And I would
16 just -- I'm wondering if you could expand on that.
17 You -- you mentioned a couple numbers. Can you
18 expand on how that could be - how -- is the cost of
19 inaction potentially going to cost ratepayers more?

20 MR. RIDER: I'll take it first. So --
21 so really I think we can narrow this down to -- to
22 three issues. The first issue is that in the cost of
23 inaction there's no relief provided to customers and
24 therefore the working group believes that the arrears
25 that have amassed during the pandemic will be

1 1/19/2023 - Monthly Meeting

2 unaffordable. And not only will customers have to
3 try to pay their bill but they have to also manage
4 their -- their arrears. And they may be terminated
5 and -- and then the expense moves into uncollectibles
6 which are ultimately paid for by all customers.

7 The second component is in the cost of
8 inaction. If -- if there is no action taken by the
9 Commission the utilities and their shareholders will
10 look to recover the financing costs that were
11 incurred in 2022. And then the third thing is that
12 if the utilities have to -- to manage and work with
13 customers on these significant level of arrears,
14 operating -- operation and maintenance expenses will
15 be much higher. The utilities will have incremental
16 cost center costs. They will have to manage
17 customers' deferred payment agreements. There will
18 be field collection activities. There will be
19 ultimately additional outreach and education type
20 costs that will -- will be higher in the cost of
21 inaction. I don't know if you want to add anything,
22 Jeff.

23 MR. HOGAN: Yeah, thank you Aric. I
24 did just want to mention one additional cost that
25 comes with no action. So if you -- if you don't --

1 1/19/2023 - Monthly Meeting

2 if we don't act we know that the, as I mentioned,
3 that S&P and Moody's and Commissioner Burman read
4 from Bank of America their concerns regarding the
5 arrears being out there. And that drag it's
6 essentially having not only on credit ratings but on
7 investor interest in investing in any state where
8 this hasn't been dealt with.

9 And so by acting in this manner, by
10 removing the vast majority of the incremental arrears
11 from, you know, risk in terms of being collected or
12 how long it's going to take to collect or carrying
13 charges, by -- by cleaning up this issue in this
14 manner, it's a, as I mentioned a net credit positive
15 thing. And even if it doesn't result in any -- in a
16 increase in a credit rating, which is kind of a lumpy
17 thing, the savvy investors out there who supply the
18 capital to the utilities will definitely recognize
19 it. And that will lead to more being -- more capital
20 being supplied, more investment in our New York
21 utilities which will lead to lower costs. So that's
22 kind of a -- a tangent good outcome of this as well
23 financially for customers.

24 COMMISSIONER MAGGIORE: Thank you.

25 Thank you very much. My next question is going --

1 1/19/2023 - Monthly Meeting

2 I'm going to ask you to expand on something you've
3 addressed. You had mentioned and Commissioner Burman
4 and Valesky mentioned in their comments that many
5 stakeholders supported a higher level of shareholder
6 contributions to fund this program. And you
7 discussed the -- the concerns of the credit rate
8 agencies.

9 So what I want to ask is if you could
10 explicitly say why we disagree with recommendation
11 for a higher level of shareholder contributions? How
12 did we settle on agreeing that the amount that they
13 are contributing is the right amount?

14 MR. RIDER: Maybe I'll start and then
15 Jeff can -- can follow up. So let me just state that
16 in Phase 1 the utilities provided, you know, \$36
17 million in shareholder contributions. And in Phase 2
18 they're proposing over \$101 million in shareholder
19 contributions which is a total of \$137 million. And
20 just to recap in the Phase 2 report the utilities had
21 asserted that this level of shareholder contributions
22 far exceeded what was provided in -- in any other
23 jurisdiction and in any other state.

24 And that also that additional
25 shareholder contributions could affect credit quality

1 1/19/2023 - Monthly Meeting
2 metrics. So and the staff looked up and did some
3 research in terms of the other shareholder
4 contributions within the States and -- and did
5 confirm that this level is -- is far exceeds what's
6 been done in other jurisdictions. And then I -- I
7 can -- I'll turn it over to Jeff in terms of the
8 credit quality metrics if he wants to add anything
9 there.

10 MR. HOGAN: The only thing I would add
11 is that any higher contribution above and beyond not
12 collecting the 2022 carrying charge amounts, any
13 additional collections just is going to be a
14 reduction in the return on equity for these
15 companies. It's going to be seen as a slightly
16 negative impact. If you look at what are about 25%
17 for instance of what Moody's looks at for its credit
18 ratings is the regulatory environment that a utility
19 operates in.

20 And if -- if the ability to earn their
21 rate of return has been allowed in rate cases
22 impinged by actions such as requiring a large
23 shareholder contribution for something like this,
24 that would have a -- a negative effect on the
25 utilities.

1 1/19/2023 - Monthly Meeting

2 COMMISSIONER MAGGIORE: Okay. Thank
3 you. The next question has to do with the comments
4 that are in the record that were received. That
5 recommend that rather than either paying off or
6 helping customers pay off arrears that we cancel
7 arrears for utility customers whose income are at or
8 below 250% of the poverty guideline. What would
9 happen if we did that?

10 MR. RIDER: So I'd -- I'd state that
11 uncollectible expense is a legitimate business
12 expense for the utilities. And, you know, if -- if
13 that was done then it would put upper pressure on
14 rates because that cost would have to be recovered
15 from all other customers. I would also note that if
16 -- if there was an income threshold, there would have
17 to be an application process and some sort of a
18 validation process. And the working group worked for
19 a long time on whether that process would be a
20 reasonable approach to deal with the -- of the
21 arrears issue we have in the State. And ultimately
22 decided that that approach would take longer and --
23 and cost more. So it was -- we moved on from that.

24 COMMISSIONER MAGGIORE: Okay. Thank
25 you. And here's my final question is actually also

1 1/19/2023 - Monthly Meeting
2 related to the -- that set of recommendations you got
3 in our public comments. Part two of that was that we
4 enact a permanent year round moratorium in utility
5 shutoffs for residents with income at or below 250%
6 of the federal poverty level. And my question to you
7 is why don't we do that? What -- why don't we make
8 paying arrears optional for people with very low
9 incomes? What would happen?

10 MR. RIDER: I -- I think it's very
11 similar to my previous response that, you know,
12 uncollectibles are a -- a legitimate business expense
13 and recoverable from all ratepayers. And it would
14 ultimately increase rates on -- for all customers.

15 COMMISSIONER MAGGIORE: Okay. Thank
16 you. Thank you for those answers and thank you again
17 for the thorough presentation and report, and I'll be
18 voting in favor. I think this is a -- a very strong
19 report. Thank you.

20 CHAIRMAN CHRISTIAN: Thank you,
21 Commissioner. We'll now do a call to vote. My vote
22 is in favor of approving the proposed Phase 2 arrears
23 reduction program. Commissioner Burman, how do you
24 vote?

25 COMMISSIONER BURMAN: Yes.

1 1/19/2023 - Monthly Meeting

2 CHAIRMAN CHRISTIAN: Commissioner

3 Alesi?

4 COMMISSIONER ALESI: Yes.

5 CHAIRMAN CHRISTIAN: Commissioner

6 Edwards?

7 COMMISSIONER EDWARDS: Yes.

8 CHAIRMAN CHRISTIAN: Commissioner

9 Howard?

10 COMMISSIONER HOWARD: Yes.

11 CHAIRMAN CHRISTIAN: Commissioner

12 Valesky?

13 COMMISSIONER VALESKY: Yes.

14 CHAIRMAN CHRISTIAN: And Commissioner

15 Maggiore?

16 COMMISSIONER MAGGIORE: Yes.

17 CHAIRMAN CHRISTIAN: Thank you. The

18 item is approved. Recommendations are adopted.

19 We'll now move on to the consent agenda. Do any

20 commissioners wish to comment on or recuse from

21 voting on any of the items in the consent agenda.

22 I'll begin with Commissioner Burman.

23 COMMISSIONER BURMAN: Thank you. I

24 have four items that I'll be commenting on. Item 162

25 which is the filing for Demand Side Management

1 1/19/2023 - Monthly Meeting
2 Program from National Grid. I'll be concurring in --
3 I'll be concurring on that matter, and my -- for me,
4 I do point out that there's a number of footnotes
5 referencing other orders that we have done where I
6 have not voted in favor of -- of those decisions. I
7 do think that we have to recognize that the demand
8 side management programs is one tool. It is not the
9 silver bullet to a lot of our gas constraint issues
10 and we really do need to tackle it in a more holistic
11 way looking at the challenges and, you know, my past
12 comments where I voted no in other matters related
13 and the -- and cited to in here I think is helpful.
14 But I am concurring which is in line with the same
15 way I voted on the Demand Side Management Programs
16 before. Okay. Thank you.

17 Item 261 which is the proposed changes
18 by staff for a draft order addressing the Public
19 Service staff white paper on Community Choice
20 Aggregation, I am a strong no. I have a lot of
21 concerns. I do want to start off just saying that I
22 do recognize staff, our staff has worked incredibly
23 hard on addressing C.C.A. and I do think that there
24 are a number of different suggestions for reforms, in
25 air quotes, that could be helpful and that are a part

1 1/19/2023 - Monthly Meeting

2 of this draft order.

3 However, I think it's nibbling around
4 the edges and I think that we're packing into this
5 draft order way too much that needs more thoughtful
6 discussion among the Commission as a body as a whole,
7 and really trying to understand it. We layer upon
8 layer the different issues for the C.C.A.s and we
9 connect them or try to connect them to other things
10 that we're doing in the clean energy space, and I
11 just think that we're missing the mark in addressing
12 perhaps some of the issues that the State has to take
13 ownership itself on some of the issues that are being
14 seen as other people's fault whether it's the ESCOs
15 or the municipalities or the C.C.A administrators.

16 It's a system process fail across the
17 board, and I don't think that it can be easily solved
18 in this manner by just making some rough around the
19 edges, you know, changes. We need to really rethink
20 it and perhaps, you know, the -- the model similar to
21 how we started off with the discussion agenda, which
22 is a much more deeper collaborative process with
23 engagement in a way that I think would give us more
24 information.

25 And I highlight here some of the

1 1/19/2023 - Monthly Meeting
2 things that really kind of struck me is we -- we talk
3 about the municipalities and in the draft order it
4 says that the Commission does not wish to impede
5 municipalities' ability to inform and education their
6 constituents and encourages municipalities to create
7 their own materials to share with their constituents.
8 These materials are not part of the opt out program
9 requirements and the municipality is free to
10 customize them however they would like.

11 However, these items should not be
12 paid for by the C.C.A. program participants or
13 somehow built into the administrative fee pricing
14 related to the program. And the actions the
15 municipality chooses to take should not be tied to
16 the C.C.A. administrator or the program for funding.
17 It leaves me concerned. I think that we are treating
18 all municipalities as if they have full resources and
19 full ability to have expertise on how to handle these
20 things and address them.

21 We're seeing that that is not the
22 case. One size does not fit all and it also is
23 unfair if we are enticing them as a state to run to a
24 C.C.A. program because you can become part of this
25 wonderful, you know, climate community and get some

1 1/19/2023 - Monthly Meeting
2 funding and have help for your residents. And on the
3 other end, we don't give them the devil in the
4 details, and we don't give them the, this is actually
5 things that you're going to have to do. And these
6 are the things that you might want to do.

7 And this is, by the way, it might not
8 all be, you know, as -- as wonderful and rosy as it -
9 - as it looks. And that's not the fault of anyone
10 but, frankly, the State in terms of taking more
11 ownership on making sure that we are clearly not
12 trying to just drive favored programs to
13 municipalities to then have to deal with the
14 headaches of it. But really trying to make sure that
15 we are collaboratively looking at it in a way that
16 makes sense.

17 I am also struck by the fact that we
18 are recognizing that for many of the bids that come
19 in for the C.C.A.s that there are none or one, only
20 one ESCO that it's applying and that we're concerned
21 about that. That we want more ESCOs. We have to
22 take a look at perhaps some of the things we as a
23 state have done to get us to this situation because I
24 do believe that part of this slow trickle has been if
25 you look back at some of the challenges with the

1 1/19/2023 - Monthly Meeting

2 reset order that we did on the ESCOs and trying to
3 push this model into the C.C.A.s. And frankly I
4 think that for some people they only wanted one or
5 two ESCOs to actually wind up being able to compete
6 in the C.C.A. space.

7 And, you know, that now seems to be
8 the case, but it also seems to be that we are now
9 having issues with what this means. And we talk
10 about, you know, to the extent that the -- the
11 pricing issue is a problem, we need to really address
12 that for some of these. What this then means because
13 they don't necessarily have to beat the utility rate
14 if they lock into a renewable -- a hundred percent
15 renewable or something else.

16 So we -- we kind of throughout the
17 draft order I felt like there needed to be a further
18 discussion and a further understanding and a more
19 comprehensive way of looking at this. And it just,
20 for me, overall really concerns me and we also talk
21 about in here, in this draft order about, you know,
22 concern with a, you know, process and setting up a
23 dispute resolution process and aligning it with the
24 way similarly to the way it's done with the U.B.B.
25 Section 8. I don't think we can just cookie cutter

1 1/19/2023 - Monthly Meeting
2 out and say this dispute resolution process is -- is
3 here, we're going to use it over here, without fully
4 understanding what that means. Without fully
5 understanding how actually it would work in real
6 time.

7 And also to the extent that there
8 needs to be much more thoughtfulness to a dispute
9 resolution process because there are a whole bunch of
10 other things that go into that, contract negotiations
11 that we're not involved in, municipalities and
12 engagement with our sister agencies. The C.C.A.
13 administrators and perhaps some of their other
14 products that they're -- that they're involved in
15 that are outside of our jurisdiction but frankly are
16 part of the reason that they're -- they're interested
17 in the C.C.A.s perhaps and not necessarily interested
18 in the utility service itself but on the other, you
19 know, things that they can, you know, offer for a
20 price to people.

21 And I also do think that there are
22 probably, if we did a real due diligence, we would
23 see that the municipalities for any money they might
24 get on the front end from, you know, the State to be
25 a part of, you know, climate community they actually

1 1/19/2023 - Monthly Meeting

2 may be actually expending more and having a lot more
3 headache and having a lot more liability that it --
4 it's maybe we need to look at what that looks like
5 and maybe kind of rethink some of the things that we
6 thought we were doing when we did the reset order.
7 So for me I'm a definite, strong no on 261.

8 On 263 this is the Green Gas Order. I
9 am going to save everyone time. The comments that I
10 had made throughout all of the different proceedings,
11 as it relates to green gas that started with the
12 reset order and continued is, for this purposes, here
13 on the record. So all of those different cases, all
14 of the different sessions where I've spoken just that
15 can be part of this record here.

16 I've spoken quite a bit about what I
17 see as procedural infirmities and think that that
18 continues to exist. It really is concerning to me
19 that we have wasted a lot of time in what clearly
20 seemed like was a outcome that was going to be, which
21 is the petitions would be denied. Now I don't have a
22 problem if we say petitions are not giving, you know,
23 has not produced what they should for us to move
24 forward. But we miss from this draft order the fact
25 that we actually have been punting for a long time on

1 1/19/2023 - Monthly Meeting

2 this decision which ultimately we all knew was going
3 to be we're going to be denying your petitions and
4 saying no to green gas.

5 We've tried to do it in a way that
6 just made people go away. The reality is is that for
7 me when I look at this I see the distinction between
8 this and how it was handled in 201. In this one,
9 there's barely any mention of the fact that there was
10 supposed to be a collaborative and looking at what
11 evaluated product would be and green gas itself. And
12 we've really put the ownness on those who -- those
13 petitioners, those few petitioners who remain who are
14 trying to put up some potential green gas products.

15 Now may or may not be of value. There
16 may or may not be opportunities for us to then take
17 that. What's missing is there's no engagement on
18 well what about this. Where's the staff proposal on
19 what green gas could look like? Where's the
20 collaborative on what it could be and what we should
21 do? And where's the drill down, frankly, on the
22 different things that they raise? The things that
23 they're looking at as potential products or carbon
24 offset product, REGI product, REC base product, et
25 cetera.

1 1/19/2023 - Monthly Meeting

2 For each one we give very little lip
3 service to them. We give very little information and
4 we give very little engagement on trying to actually
5 understand it and drill down a little bit. And
6 basically just say no you didn't show it to us, no
7 that's part of C.L.C.P.A. and you guys haven't been
8 interested in working with us in the C.L.C.P.A.

9 Frankly, I find it incredible and the
10 infirmaries for me, the numerous ones call into
11 question the procedural fairness of this and also the
12 appropriateness of us actually saying that we're
13 denying this without actually showing that we tried
14 to work in a way. I don't think I've heard us ever
15 discuss in a cohesive way the detailed collaborative
16 on green gas except to say, yes, we met with them.
17 That's just not acceptable to me. So I'll be -- I'll
18 be voting no on 263.

19 On 372 I will be concurring though I
20 do have some concerns. This is the traditional
21 demand based rate structure for commercial electric
22 vehicle charging. One of the things that is
23 important for why I'm voting in concurrence is that
24 the utilities are going to be asked to come back to
25 us with proposals. And those proposals will then be

1 1/19/2023 - Monthly Meeting

2 SAPA'd and noticed and will have to come to the
3 Commission for decision making. So there is an
4 opportunity for us to weigh in on the approval of
5 those.

6 For me, the pause I have is that part
7 of the reason that we're doing this comes from the
8 legislative end of things. And so this is something
9 that the legislation has been changed and there's
10 been amendments to it and so we now have to be
11 responsive to the new sections in the law. And so we
12 are trying to fulfill, which is the right thing,
13 fulfill our obligation to follow the law.

14 The problem is is that it is clunky
15 and it is also now us having to say you know that
16 thing we did in 2019 related to E.V.s, well, now
17 we're going to have to say okay we can fold that up
18 that now because this new thing that we're doing over
19 here is, you know, the latest and greatest. And this
20 is what we're doing and move forward. I'm really
21 worried that when we are looking at this that there
22 is just some laws that need to be vetoed. And there
23 are some laws that we need to have more of a direct
24 understanding on from the get-go.

25 And perhaps it's also for us as a

1 1/19/2023 - Monthly Meeting
2 commission meaning needing to be able to be a little
3 bit more forceful in understanding and advocating in
4 a way that is helpful to the folks that we regulate.
5 And is helpful to the customers and understanding
6 that. And also not having staff have to continually
7 spin their wheels and change the latest and greatest
8 to something else. And so for me I concur because I
9 think staff is working incredibly hard at trying to
10 do that and also trying to protect the regulatory
11 process that is so important. But, frankly, I think
12 the rails are falling off if we do not get a handle
13 on this.

14 And when we talk about affordability
15 and the fact that some of these state policies are
16 going to make it even less affordable and aren't
17 going to be factored in until after the fact and then
18 we're just going to be, we have to just do it because
19 it's part of the law, just really not okay. And so
20 when I see a draft order that basically has to do
21 something different just because and also then has to
22 stop the thing that we started and we don't even have
23 a lot of information on yet from the 2019, I think
24 we're going down a really bad road.

25 And as we head into more and more

1 1/19/2023 - Monthly Meeting
2 issues, we really need to have more communication in
3 a way that is showcasing that we are, you know,
4 trying to do the right thing but we can't if we're
5 continually getting mandated that is actually not
6 actually going to be helpful. And so for that I'm
7 going to be concurring with grave reservation. Thank
8 you.

9 CHAIRMAN CHRISTIAN: Thank you,
10 Commissioner. Commissioner Alesi?

11 COMMISSIONER ALESI: Thank you, Mr.
12 Chairman. I will be supporting the agenda in its
13 entirety without question or comment.

14 CHAIRMAN CHRISTIAN: Thank you,
15 Commissioner. Commissioner Edwards?

16 COMMISSIONER EDWARDS: No questions,
17 no comments. Thank you.

18 CHAIRMAN CHRISTIAN: Thank you.
19 Commissioner Howard?

20 COMMISSIONER HOWARD: Yeah, I have two
21 items I'd like to speak to. First Item 261, first of
22 all, I believe that the opt out provisions of this
23 and previous orders is flawed. And I believe are
24 fundamentally undemocratic. You know, the belief
25 that local governments are fully capable of making

1 1/19/2023 - Monthly Meeting
2 utility supply purchases for all of their
3 constituents is questionable.

4 I believe local government actions are
5 well intended but the broad lack of participation by
6 residents is equally troubling. A recent article
7 described a meeting in the cold -- in Cold Spring on
8 -- on this very subject. The track had just four
9 participants. The Cold Spring officials acknowledged
10 this was a problem.

11 The order intends to improve the C.C.A
12 process and -- and work and -- and will work I
13 believe to help improve the process of public
14 participation. It still falls way short because of
15 the continued opt out provision. Buying and
16 reselling electric supply is not without risk.
17 Prices that are locked into today may prove to be
18 more expensive tomorrow. I believe that this issue
19 of risk has not been fully communicated to local
20 officials and certainly not to their constituents.

21 This lack of full communication only
22 increases with the size of the municipality involved.
23 A community of 10,000 is easier to talk to than one
24 of 100,000. I also point out that individual -- that
25 the -- under the orders of this commission that if an

1 1/19/2023 - Monthly Meeting
2 individual customer wants to get energy from an
3 energy service company or ESCO it -- that customer
4 must affirm that leaving bundled utility service is
5 their wish. That is not the case with this
6 particular order.

7 And -- and actually having been in
8 government a long time, ridiculously long, there are
9 things that local governments can do. And for those
10 that believe that local governments are closest to
11 the people and the participation is the highest, I
12 think that's a very flawed assumption. Anybody who's
13 ever been to a town board meeting, and I've been to
14 many, big and small, there are not many folks that
15 pay attention.

16 There's also the other thing the issue
17 of how many people actually participate in local
18 government elections? Our highest participation in
19 this state are during presidential years and for the
20 presidency itself. By the time we get down to town
21 or village boards, and remember villages don't even
22 vote on -- in November. They vote in May. That
23 participation drops even more. So it is a flawed
24 assumption that local governments are, first of all,
25 capable of doing this and are well equipped to -- to

1 1/19/2023 - Monthly Meeting

2 do this program. So I will be voting no on this --
3 on this order.

4 I also want to comment on order 372.
5 First I want to state that making -- ratemaking
6 through legislation is not good public policy. I say
7 this, as a past participant, in drafting and helping
8 pass bills that usurps this commission's authority.
9 Time and experience have proved to me while these
10 actions were labeled good politics they were awful
11 public policy. Under the leadership of staff and
12 particularly this White House and this have to adhere
13 to this legislative mandate, they did as good a job
14 as possible I believe including and more -- most
15 important to me it's minimizing the ratepayer impacts
16 going forward on the E.V. charging program.

17 However, I need to point out that
18 certain parties to these discussions have a wholly
19 unrealistic position regarding of this infrastructure
20 to charge large vehicles. Fleets in particular. I
21 find the Metropolitan Transportation Authority's
22 comments particularly troubling. Electrifying the
23 M.T.A.'s bus fleet cannot be allowed to a funded
24 exclusively or even primarily by utility ratepayers.
25 Many, many billions of dollars will be required to

1 1/19/2023 - Monthly Meeting

2 pay for this charging infrastructure for the M.T.A.

3 This capital expense must be the
4 responsible of the M.T.A. and other fleet operators.
5 And I hope and I count on in speaking to staff that
6 these issues will be a large part of our interim
7 program review of the E.V. charging order from 2019.
8 And I look forward to a very vigorous discussion at
9 that time to look to improve a very rapidly changing
10 environment when it comes to E.V.s at large and E.V.
11 infrastructure, charging infrastructure in
12 particular. But that -- but with that I will be
13 voting for that item. And that's all, Mr. Chairman.

14 CHAIRMAN CHRISTIAN: Thank you,
15 Commissioner. Commissioner Valesky?

16 COMMISSIONER VALESKY: Mr. Chairman,
17 just want to highlight two quick items. Item -- and
18 they are both involving electric transmission
19 projects. Item 365. This is the approval of the
20 Environmental Management and Construction Plant Part
21 2A that National Grid filed for their Smart Path
22 Connect Project. This is in the Adirondacks. And
23 Item Number 370 also a National Grid petition. This
24 is a project -- electric transmission project in
25 Oswego County and Onondaga County if approved will

1 1/19/2023 - Monthly Meeting

2 replace 18 wooden structures with galvanized steel, H
3 frame -- H frame structures.

4 I mention them in context to and in
5 light of the fact that last month we spent a
6 considerable amount of time talking about electric
7 transmission specifically as it related to the NYSEG
8 Phase 1 suite of projects, I believe, over 2 dozen
9 individual projects that we approved. A month
10 doesn't go by here on this commission whether we talk
11 about it or not that we don't have really important
12 electric transmission upgrade projects.

13 These are upgrades, they're
14 modernizations, they're storm hardening projects.
15 And the work is ongoing across all utilities. And I
16 just wanted to raise that fact today that we have two
17 more here today. I'm sure we'll have some more next
18 month as well. It's important work that continues to
19 take place whether any of us choose to -- to raise
20 that in a -- in a -- for public comment during our
21 sessions or not. Thank you.

22 CHAIRMAN CHRISTIAN: Thank you,
23 Commissioner. Commissioner Maggiore?

24 COMMISSIONER MAGGIORE: I have no
25 additional comments on the consent agenda. Thank

1 1/19/2023 - Monthly Meeting

2 you.

3 CHAIRMAN CHRISTIAN: Thank you,
4 Commissioners. We'll do a call for vote. My vote is
5 in favor of the recommendations on the consent
6 agenda. Commissioner Burman, how do you vote?

7 COMMISSIONER BURMAN: I vote yes on
8 the consent agenda except 162 I'm a concur. 261 I'm
9 a no. 263 I'm a no. 372 I'm concurrence.

10 CHAIRMAN CHRISTIAN: Thank you.
11 Commissioner Alesi?

12 COMMISSIONER ALESI: I vote yes on all
13 items.

14 CHAIRMAN CHRISTIAN: Thank you.
15 Commissioner Edwards?

16 COMMISSIONER EDWARDS: Yes, all items.

17 CHAIRMAN CHRISTIAN: Thank you.
18 Commissioner Howard?

19 COMMISSIONER HOWARD: I will be voting
20 yes on all items with the exception of Item 261 where
21 I am a no.

22 CHAIRMAN CHRISTIAN: Thank you.
23 Commissioner Valesky?

24 COMMISSIONER VALESKY: Yes on all
25 items.

1 1/19/2023 - Monthly Meeting

2 CHAIRMAN CHRISTIAN: Commissioner
3 Maggiore?

4 COMMISSIONER MAGGIORE: Yes on all
5 items.

6 CHAIRMAN CHRISTIAN: Thank you. The
7 items are approved and recommendations are adopted.
8 Madam Secretary, is there anything further to come
9 before us today?

10 SECRETARY PHILLIPS: There's nothing
11 further today.

12 CHAIRMAN CHRISTIAN: Thank you very
13 much. And with that we adjourn. Thank you everyone.
14 Safe travels.

15 (The meeting adjourned at 12:14 p.m.)

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1 1/19/2023 - Monthly Meeting

2 STATE OF NEW YORK

3 I, MONIQUE HINES, 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 74, is a true record of all proceedings had at the
8 hearing.

9 IN WITNESS WHEREOF, I have hereunto
10 subscribed my name, this the 23rd day of January, 2023.

11

12

13 MONIQUE HINES, Reporter

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A	
A.A.R.P 23:22 24:19 27:24	administration 13:4
A.A.R.P.'s 26:8	administrative 15:16 58:13
a.m 1:7 2:2	administratively 11:10
ability 6:4 37:12 52:20 58:5,19	administrator 58:16
able 24:14 44:19 60:5 66:2	administrators 57:15 61:13
absent 24:3	adopt 8:19 10:9,25 13:14 20:16
absolutely 39:18	adopted 13:2 17:8 30:9 40:16 55:18 74:7
accelerating 28:22	adopting 9:14
acceptable 64:17	advance 20:24
access 21:8	advocating 66:3
account 15:4	affect 51:25
accounts 5:8 8:3,14 13:18 15:3 15:10,11 20:19	affirm 69:4
accrued 10:23 14:5 18:2 20:17	afford 10:5 39:12 44:20
accumulated 5:18 30:11,18	affordability 5:11 6:3,9 20:25 28:22 29:23 31:25 32:4 43:17 44:6,10,13 66:14
accuracy 19:9	affordable 9:2 10:16 43:24 44:3 66:16
accurate 21:10	agencies 6:11 25:5 26:10 43:12 45:2 51:8 61:12
achieve 14:10	agenda 2:7,9,11 3:8 55:19,21 57:21 67:12 72:25 73:6,8
achieves 18:24	aggregate 9:23 17:16
acknowledged 5:17 68:9	Aggregation 56:20
act 19:17 34:20 35:9 50:2	agree 26:15
acting 50:9	agreeing 51:12
action 9:4,21 15:14 20:15 38:13 39:5 40:3 48:15 49:8,25	agreement 12:2 19:20,23
actions 19:8 52:22 58:14 68:4 70:10	agreements 9:3 10:16 19:13,18 20:12 49:17
active 12:2	air 56:25
activities 49:18	Albany 1:9
add 40:18 45:16 49:21 52:8,10	Alesi 1:14 2:17,18 37:8,9 38:5 55:3,4 67:10,11 73:11,12
addition 30:6 41:8 45:19	Alicia 3:13
additional 18:10 20:24 30:19 31:4 34:17 41:11 49:19,24 51:24 52:13 72:25	align 14:12
additions 45:8	aligned 12:25
address 5:3,18,20 6:8 8:10 21:6 26:17 30:10,24 46:5 58:20 60:11	aligning 35:3 60:23
addressed 9:17 17:2,12 51:3	aligns 29:20
addresses 17:3	alleviate 28:24
addressing 17:25 21:17 27:25 30:25 56:18,23 57:11	allow 8:2,25 10:15 11:15 12:18 14:23
adequate 14:23	allowed 12:16 17:4 52:21 70:23
adhere 70:12	allowing 26:4
Adirondacks 71:22	allows 9:5 34:10 39:6
adjourn 74:13	alternative 9:21
adjourned 74:15	amassed 48:25
administer 11:5	amendments 65:10
administered 47:22	America 50:4
	amount 13:17 22:11 24:8 25:10

30:5,12 51:12,13 72:6
amounts 14:9 26:5 27:14 52:12
analysis 12:8 16:22 27:23
announced 28:4
answered 45:17
answers 54:16
Anybody 69:12
apples-to-apples 35:13
applicable 20:4,5
application 7:25 8:23 11:5,8
 19:11 53:17
applications 15:17
applied 8:14,16 10:13 11:14
 12:22 15:2,4,18 20:18
applies 29:11
apply 5:8 14:18,23 47:9
applying 59:20
appreciate 21:4,24 22:3 33:4,4
 47:15
approach 5:3 11:12 13:21 15:16
 24:2 53:20,22
appropriately 27:17
appropriateness 64:12
appropriation 5:16
approval 65:4 71:19
approved 55:18 71:25 72:9 74:7
approving 54:22
approximately 7:10 15:20,23
 17:9 28:12 40:25
April 4:19
area 28:23 45:14
areas 23:2
argue 18:10
Aric 3:11,14 6:15 21:3 38:7,12
 40:10,13 41:12 42:22 45:19
 47:16 49:23
arrearage 18:19
arrears 3:10 4:15,17,18,20,21
 5:3,6,18,20 6:4,8 7:2,8,10,12
 7:14,16,20 8:6,19,21,25,25
 9:7,10,13,13,14 10:12,23,25
 11:13,19 12:11,22,22,23,24
 13:7,15,18,23,25 14:5,12,24
 15:7,13 16:6 17:12,15,19 18:2
 18:5,24 19:11,13,25 20:5,5,14
 20:17 21:6 23:23 25:7,10 26:2
 26:6 29:17,22 30:8,10,12,14
 30:18 31:17 32:6 33:18,24
 34:5 37:17 41:6,7 44:8 48:24
 49:4,13 50:5,10 53:6,7,21

54:8,22
article 68:6
asked 64:24
asking 24:12 48:5,12
aspects 26:12
assentation 12:6
assert 18:7 24:2 45:22
asserted 51:21
assistance 12:5 20:11
assisted 5:13
associated 5:3 15:16 17:18
assumption 69:12,24
assurance 47:20
attachments 22:23
attention 69:15
audio 3:21
authority 70:8
Authority's 70:21
authorized 16:11
authorizing 5:5
automatic 7:24 8:20
automatically 11:14 15:18
available 3:14 21:2
AVANGRID 28:20
avoid 6:5 9:3 10:16
awful 70:10

B

B 1:16,18
B.O.A 27:22
baby 40:11
back 5:24 31:9 38:25 44:12
 59:25 64:24
backdrop 29:3
bad 34:17 66:24
balance 13:9 14:10 18:21 43:13
balanced 39:17,20
balances 9:16 10:3 26:6 39:10
Bank 50:4
barely 63:9
base 63:24
based 14:2 64:21
basically 64:6 66:20
basis 13:24 14:13 37:18
beat 60:13
began 12:19
beginning 13:8
belief 41:20 67:24
believe 38:13 42:24 59:24 67:22
 67:23 68:4,13,18 69:10 70:14

72:8	Buying 68:15
believes 48:24	
Berkley 3:13 37:23 40:21,22	C
best 24:2 38:10	C.C.A 56:23 57:15 58:12,16,24
better 10:14 14:12 37:25	60:6 61:12 68:11
beyond 52:11	C.C.A.s 57:8 59:19 60:3 61:17
bids 59:18	C.L.C.P.A 43:23 64:7,8
big 69:14	calendar 17:19
bill 5:9 9:6 17:9 20:8,24 28:6	call 2:4,12,12 25:11 54:21
28:10 41:18 48:14 49:3	64:10 73:4
billion 4:21 9:11,11,23 15:14	calls 9:10
41:7,11	cancel 53:6
billions 20:14 70:25	cap 7:23 13:14,16
bills 4:14 10:6,15 13:13 15:19	capable 67:25 69:25
19:14 30:21 31:7,15 39:13	capital 18:15 50:18,19 71:3
43:6,20 44:17,20 70:8	caps 14:9
bit 6:21 24:24 36:3 62:16 64:5	caption 75:5
66:3	carbon 63:23
blind 12:3	care 26:7 44:7
board 29:11 33:11,25 34:25 36:4	careful 26:18 27:15
57:17 69:13	carefully 37:2
Boardroom 1:8	carrying 15:12 17:18 18:6 25:21
boards 69:21	50:12 52:12
body 57:6	case 3:9 25:20 27:12 44:14
borne 13:10 18:15	58:22 60:8 69:5
brief 7:4 45:7	cases 52:21 62:13
brilliant 37:20	cause 25:12 75:4
broad 16:8 68:5	cautious 29:5
broader 43:4	center 49:16
budget 5:17 17:6 24:16 26:25	certain 10:22 22:22 70:18
27:8	certainly 21:13 45:11 46:11
build 21:6	47:5 68:20
Building 1:8	certify 75:3
built 39:7 46:24 58:13	cetera 33:20 34:25 63:25
bullet 56:9	Chair 1:12 3:16,17 4:3 38:7
bump 44:7	Chairman 2:3,10,16,19,22,25 3:4
bunch 61:9	3:7,20,25 6:15,18 21:3 37:7
bundled 69:4	37:10 38:4 40:7 45:4,7 47:24
burdens 19:2	54:20 55:2,5,8,11,14,17 67:9
burdensome 11:10	67:12,14,18 71:13,14,16 72:22
Burman 1:13 2:14,15 21:25 22:2	73:3,10,14,17,22 74:2,6,12
26:13 31:23 33:3 37:8 45:11	challenge 21:12 46:14
45:17 50:3 51:3 54:23,25	challenges 21:14,18 22:15,20
55:22,23 73:6,7	29:9 46:17,18 56:11 59:25
Burman's 39:22	change 44:8 66:7
bus 70:23	changed 65:9
business 39:16 53:11 54:12	changes 2:6,9 56:17 57:19
businesses 5:24 37:11 38:24	changing 71:9
43:10	channels 20:7
buy 36:7	characterize 48:12

<p>charge 52:12 70:20 charges 25:21 50:13 charging 64:22 70:16 71:2,7,11 check 3:21 checked 46:2 chief 19:6 Choice 56:19 choose 36:18 72:19 chooses 58:15 chose 46:5 Christian 1:12 2:3,10,16,19,22 2:25 3:4,7,17,17,20,25 4:4 6:15,18 21:3 37:7 38:4 40:7 45:4 47:24 54:20 55:2,5,8,11 55:14,17 67:9,14,18 71:14 72:22 73:3,10,14,17,22 74:2,6 74:12 circumstances 19:19 44:2 cited 56:13 Citizenship 42:12 City 14:2,9 claim 24:6,20 clean 57:10 cleaning 50:13 clearly 4:24 23:12,15 26:17 33:14 59:11 62:19 climate 58:25 61:25 closest 69:10 clunky 65:14 coded 12:3 cohesive 64:15 cold 68:7,7,9 collaboration 22:21 collaborative 57:22 63:10,20 64:15 collaboratively 32:23 59:15 colleagues 45:9 collect 24:13 50:12 collected 15:23 50:11 collecting 25:21 52:12 collection 8:11 12:20 20:21 49:18 collections 9:18 52:13 combination 16:7 combined 15:11 come 23:16 32:19 59:18 64:24 65:2 74:8 comes 44:14 49:25 65:7 71:10 coming 43:10 commenced 2:2</p>	<p>comment 26:9 33:5 35:8 55:20 67:13 70:4 72:20 commenting 55:24 comments 26:15 34:23 36:12 39:22 45:12 48:11 51:4 53:3 54:3 56:12 62:9 67:17 70:22 72:25 commercial 7:14,17 8:22 9:16 10:22 11:2,3,21 12:11 15:10 18:3 34:6 44:5 64:21 commission 1:3 2:4 3:19 4:5 5:2 5:5 7:3 8:10,19 9:5 10:9,25 11:8 13:13 14:8,21 16:20 17:2 17:8,11 19:7 20:15 23:23 32:3 33:8,22 38:9 39:6,24 40:4 42:17 43:16 44:15 49:9 57:6 58:4 65:3 66:2 68:25 72:10 commission's 5:17 21:7 70:8 commissioner 2:14,15,16,18,19 2:21,22,24,25 3:3,4,6 21:25 22:2 25:3 26:13 31:23 33:3 37:8,8,9 38:5,5,6 39:22 40:8 40:8,9,21,22 41:14 43:19 45:5 45:5,6,10,17 47:25,25 48:2 50:3,24 51:3 53:2,24 54:15,21 54:23,25 55:2,4,5,7,8,10,11 55:13,14,16,22,23 67:10,10,11 67:15,15,16,19,20 71:15,15,16 72:23,23,24 73:6,7,11,12,15 73:16,18,19,23,24 74:2,4 commissioners 1:11 2:12 3:18 4:4 6:19 47:21 55:20 73:4 committed 17:16,25 commodity 6:6 common 32:19,25 communicate 42:10 communicated 68:19 communicating 37:3 communication 20:10 41:25 42:8 42:14 43:4 67:2 68:21 communications 19:22 community 18:13 56:19 58:25 61:25 68:23 companies 16:24 52:15 company 69:3 company's 25:20 comparable 34:14 compared 9:20 comparison 35:13 compassionate 37:20</p>
---	---

<p> compete 60:5 complete 41:9 completely 41:4 complexity 16:22 component 49:7 comprehensive 38:8 60:19 comprised 6:11 Comptroller 29:16 comptroller's 29:25 30:25 Con 13:21,22 14:4,12 28:19 concern 28:23 60:22 concerned 25:6 34:9 42:20 58:17 59:20 concerning 42:25 62:18 concerns 17:24 24:23 26:10,17 30:25 33:15 41:17 45:11 50:4 51:7 56:21 60:20 64:20 concludes 20:25 conclusion 20:13 29:25 concur 66:8 73:8 concurrence 64:23 73:9 concurring 56:2,3,14 64:19 67:7 conduct 2:11 confidence 41:10 confirm 2:13 52:5 congratulations 47:23 connect 57:9,9 71:22 consensus 22:6,13 23:5 consent 55:19,21 72:25 73:5,8 consequence 31:16 consequences 26:20 27:20 conservative 14:15 consider 20:23 30:17,19 considerable 72:6 consideration 7:3 33:18,25 considers 34:25 consistency 13:3 consistent 11:13 17:7 32:20,24 consisting 75:6 constituents 58:6,7 68:3,20 constraint 56:9 Construction 71:20 constructive 29:2 Consumer 3:12 contacted 42:19 contacts 44:24 context 8:9 16:17 17:21 44:16 72:4 continually 66:6 67:5 continue 3:23 5:24 10:12 20:10 </p>	<p> 23:25 30:17 38:24 41:23 continued 21:8 62:12 68:15 continues 23:24 36:16 62:18 72:18 contract 61:10 contractor 33:16 contrast 28:14 contribute 18:5 contributed 24:8 contributing 51:13 contribution 17:20 18:18 24:10 25:22 45:10 52:11,23 contributions 17:14,17,21,25 18:11,22,23 27:14 28:2 34:13 36:10 51:6,11,17,19,21,25 52:4 control 32:11 conversations 23:14 cookie 60:25 cooperative 46:9 correct 24:20 cost 9:8,22,23,24 10:6 11:16 13:9 15:7,13,16,19,22 16:4,5 16:25 18:15 34:11 39:5,13 48:14,15,18,19,22 49:7,16,20 49:24 53:14,23 costs 14:15,15 15:12 17:5,8,10 17:18 18:6,25 34:17 43:22 49:10,16,20 50:21 count 71:5 country 25:8 County 71:25,25 couple 22:4,4 23:20 38:18 45:7 48:8,17 course 9:3,21 30:11 cover 12:12 13:2 covered 12:25 13:18 41:4 COVID 8:24 31:3 34:5 38:11,20 38:24 COVID-19 4:7,16 5:2,19,23 7:15 7:19 10:23 12:6 21:12 30:3 create 46:25 47:11 58:6 created 21:12,13 credit 5:8 7:22 10:11,12 11:22 13:14,16 14:8,20 15:18 18:12 20:4 25:5,11,23,25 26:8,9 27:5 41:22 43:12 45:18 50:6 50:14,16 51:7,25 52:8,17 credits 7:10,12 8:14,15,23 12:22 14:18,22,24 15:2,4,7,11 </p>
--	---

18:5 20:18 26:3
crisis 32:6
criteria 11:23 20:4
critically 28:13
culminated 6:24,25
current 31:25
currently 28:8
customer 11:5 12:8 13:14 15:9
 20:3 28:14,16 30:10 41:18
 69:2,3
customer's 19:18
customers 4:6,8,11,25 5:9,13
 6:4 7:14,18 8:4,22,22,24,25
 9:6,16,17 10:4,7,11,14,22,22
 11:2,4,9,15,19,21,23,24 12:11
 12:14,16,19 13:5,11 14:3,4,10
 14:11,19,20,22 15:19,20 16:6
 18:4,16,20 19:10 21:7 24:13
 26:4,20 30:4,8,20 31:7,13,21
 32:13 34:7,11,15,16 37:4 39:8
 39:11,14 42:4,9,19,24 43:9,13
 44:5 46:22 48:23 49:2,6,13
 50:23 53:6,7,15 54:14 66:5
customers' 13:7 19:14 43:20
 49:17
customize 58:10
cut 11:15
cutter 60:25

D

D.P.A.s 26:5
D.P.S 30:7
darn 38:2
data 11:6 19:7,9
date 16:21 19:24
Dave 2:25
DAVID 1:17
day 43:19 75:10
days 4:17,19,20,22 8:15 14:21
 15:3 16:20 19:24 38:9,11
deal 19:12 22:7 53:20 59:13
dealing 32:6
dealt 50:8
debt 34:17
decarbonization 43:23
December 6:25
decide 40:3
decided 5:2 35:5 53:22
decision 63:2 65:3
decisions 29:2 56:6

deeper 57:22
deferrals 18:22
deferred 9:2 10:16 15:25 16:3
 19:13,17,19,23 20:12 49:17
definite 62:7
definitely 25:15,16,17 50:18
definition 11:2,4 12:24
delays 35:10
deliver 28:5
delivered 43:8
demand 55:25 56:7,15 64:21
demonstrates 12:9
denied 62:21
denying 63:3 64:13
department 29:18 37:21,24
deputy 3:12
describe 40:15
described 42:22 68:7
describing 16:21
description 21:10
designed 9:22 20:2 46:22
designing 6:14
detailed 39:17 64:15
details 59:4
determine 11:19,23
determining 11:3
devastation 37:13
developed 46:10
development 15:24 16:3
devil 59:3
Diane 1:13 2:14
differences 46:16
different 13:21 35:16 47:12
 56:24 57:8 62:10,13,14 63:22
 66:21
differently 46:5
difficult 23:14 25:12 42:10,12
 43:25 46:19
diligence 27:3 61:22
diligently 6:13
DiNapoli 29:16
direct 28:16 65:23
directing 5:7 16:18
directly 34:24
director 3:12
disabled 12:4
disagree 51:10
disappointed 36:21
disconnect 11:25
disconnected 12:14

disconnections 4:9	38:19, 23
discount 5:10 28:9 46:23	economically 10:4 30:15 39:11
discuss 64:15	edges 57:4, 19
discussed 41:2 51:7	Edison 13:21, 22 14:4, 12 28:20
discussion 3:9 44:13 48:6 57:6 57:21 60:18 71:8	education 20:7 49:19 58:5
discussions 33:17 70:18	Edwards 1:15 2:20, 21 38:5, 6 55:6, 7 67:15, 16 73:15, 16
dispute 60:23 61:2, 8	effect 29:9 52:24
distinction 63:7	effective 16:21 19:24
distressed 10:5 39:12	effectively 11:16 37:3
distribution 29:16	effects 30:9
diving 23:9	effort 20:2 37:10
doing 27:5 31:8 35:5 37:3 57:10 62:6 65:7, 18, 20 69:25	efforts 20:10 21:5, 7, 19
dollars 15:24 70:25	either 12:3 44:25 53:5
dollars' 20:14	elderly 12:3
domain 44:18	elections 69:18
doubt 25:5 26:9	electric 5:7 7:11 64:21 68:16 71:18, 24 72:6, 12
downgrade 24:8, 21 25:13, 15 26:19	electricity 43:8
downgraded 25:17	Electrifying 70:22
downgrades 26:11	eligibility 11:18, 22 12:9, 21 20:4 32:15
dozen 72:8	eligible 8:6, 24 11:3, 9 12:21, 24 13:14, 18 14:2, 18 15:19 34:15
draft 3:18 4:4 8:18 10:8, 20, 20 10:24 11:7, 11, 17 12:7, 15, 23 13:13 14:7, 24 16:2, 18 17:3 18:17, 20 19:4, 8, 21 20:15 24:22 56:18 57:2, 5 58:3 60:17 60:21 62:24 66:20	eliminate 7:16
drafting 70:7	elimination 34:5
drag 25:11 50:5	else's 48:14
drill 63:21 64:5	emphasize 39:21
drive 59:12	emphasizing 38:17 39:4
drops 69:23	employment 6:3
due 6:2 27:3 37:12 39:2 46:8 61:22	enact 54:4
Dwyer 3:13	encompass 15:13
	encouraged 5:19 21:20
E	encourages 58:6
E.A.P 5:11, 13 34:6	ended 20:20
E.V 70:16 71:7, 10	energy 5:10 6:3, 9 19:14, 16 21:8 28:4 31:25 32:4 43:17, 22, 24 44:3, 9, 13 57:10 69:2, 3
E.V.s 65:16 71:10	engage 36:11
earlier 19:10 37:11	engaged 21:21 23:15
earn 52:20	engagement 22:10 57:23 61:12 63:17 64:4
earning 28:7	English 42:11
earnings 28:17	enrolled 5:9 46:23
easier 68:23	ensure 21:7
easily 57:17	enter 9:2 10:15
easy 13:5 40:11	entered 45:12
economic 5:22 15:24 16:3 29:15	enticing 58:23
	entire 25:8
	entirety 67:13

environment 18:14 52:18 71:10	extent 35:23 60:10 61:7
Environmental 71:20	
equally 68:6	F
equipment 12:4	face 43:6
equipped 69:25	fact 6:5 22:7 23:21 27:4 36:20 46:2 47:15 59:17 62:24 63:9 66:15,17 72:5,16
equitable 12:18 18:18 47:2	factored 66:17
equitably 10:3 39:10	fail 57:16
equity 52:14	fair 13:3 19:16 35:11 47:2
ESCO 59:20 69:3	fairness 64:11
ESCOs 57:14 59:21 60:2,5	falling 66:12
ESP 1:8	falls 68:14
especially 31:20	far 18:8 26:8 45:23 51:22 52:5
essentially 50:6	fault 57:14 59:9
establish 14:8	favor 36:24 54:18,22 56:6 73:5
esteemed 37:24	favored 59:12
estimate 14:16	federal 54:6
estimated 17:6	fee 58:13
estimates 9:8 15:6	feedback 6:21
et 33:20 34:25 63:24	feel 22:25
evaluate 9:19	felt 22:15,15 60:17
evaluated 63:11	field 49:18
everybody 40:13	filed 22:6 30:6 71:21
everything's 3:22	filing 7:2 8:9 16:19 55:25
evidence 24:7,21	final 2:7,9 53:25
exceed 18:9 45:23	financial 4:25 11:19,24 12:5,12 14:11 19:6,19 21:9 31:2
exceeded 51:22	financially 50:23
exceeds 52:5	financing 49:10
exception 73:20	find 11:8 33:12 34:19 35:11 64:9 70:21
excited 39:19	first 3:8 22:4 31:11 33:25 36:16 41:2 43:16 45:9 48:7,20 48:22 67:21,21 69:24 70:5
exclusively 70:24	fiscal 5:16
exist 43:16 62:18	fiscally 37:16
existing 28:9 34:16	fit 58:22
expand 7:5 48:8,16,18 51:2	Five 8:2
expanding 32:15	flagged 27:24
expect 34:14	flawed 67:23 69:12,23
expending 62:2	fleet 70:23 71:4
expense 16:16 28:25 49:5 53:11 53:12 54:12 71:3	Fleets 70:20
expenses 8:11 16:9,12 49:14	floor 1:8 6:19
expensive 9:4 11:9 39:5 68:18	focus 23:21 26:25 42:16 43:19
experience 70:9	focused 29:7 32:10
experienced 4:25	focusing 25:9
expertise 58:19	fold 65:17
explain 10:10,18	folks 22:14,17,22 23:8,12,15 42:14 66:4 69:14
explained 9:13 16:7	
explaining 23:8	
explicitly 51:10	
explore 23:3	
expressed 17:24	
extensively 45:15	

follow 34:2 51:15 65:13
following 7:4
footnotes 56:4
for-profit 33:20
forceful 66:3
foregoing 75:3,6
form 47:5
forth 32:2
Fortis 28:20
forward 10:15 23:2 24:2 27:9
 29:10 30:24 31:5 32:4,11
 42:15 44:10,22,22 47:18,22
 62:24 65:20 70:16 71:8
foster 20:3
found 22:24
four 7:24 12:5 46:24 55:24 68:8
frame 20:5 72:3,3
frankly 22:25 59:10 60:3 61:15
 63:21 64:9 66:11
free 42:21 43:10 58:9
freed 26:4
front 61:24
frustrated 36:6
Fuel 15:25 16:15,19
fulfill 65:12,13
full 13:25 14:5 21:23 44:16
 58:18,19 68:21
fully 13:19 22:16 31:21,21 61:3
 61:4 67:25 68:19
functioning 3:22
fund 47:7 51:6
fundamental 43:15 44:9
fundamentally 67:24
funded 28:5,13,16,24 70:23
funding 23:22 24:3,4,5,17 26:25
 27:25 58:16 59:2
funds 15:24,25 16:4 18:8 45:23
 47:10
furloughs 6:2 39:3
further 6:3 39:25 40:4,5 60:17
 60:18 74:8,11
Furthermore 9:25
future 18:25

G

galvanized 72:2
gas 5:7 7:11 43:8 56:9 62:8,11
 63:4,11,14,19 64:16
general 34:3 47:7
get-go 65:24

getting 6:20 42:13 67:5
give 22:12 27:16 29:19 36:13
 57:23 59:3,4 64:2,3,4
gives 47:20
giving 25:22 62:22
glad 39:18
global 27:23 43:22
go 21:24 30:24 31:5 35:4 42:14
 61:10 63:6 72:10
goal 14:19 44:15
goes 24:9 28:12,21 29:3 33:19
 34:18 41:19
going 6:15 10:15 22:20 23:2
 27:9 28:3 29:8,10 31:4,9
 34:21 35:15 36:19,23,25 37:22
 42:18,23 43:18 44:6,10,23
 47:18,22 48:7,19 50:12,25
 51:2 52:13,15 59:5 61:3 62:9
 62:20 63:2,3 64:24 65:17
 66:16,17,18,24 67:6,7 70:16
good 2:3 3:16,17 4:3 23:2,19
 38:2,9 39:16 44:11 45:3 50:22
 70:6,10,13
government 28:13 68:4 69:8,18
governments 67:25 69:9,10,24
governor 24:16 28:3,18 47:8
grain 25:18
grave 67:7
great 22:6 26:13 33:3 47:23
greater 4:17,18,20,21
greatest 65:19 66:7
green 62:8,11 63:4,11,14,19
 64:16
Grid 16:14,19 56:2 71:21,23
ground 47:11
group 6:9,10,23,24 9:20 10:3
 11:18 17:23 20:6,21 22:11,24
 23:15 26:24 32:7,9,18 33:10
 35:19 37:22 42:15 45:14 46:20
 47:14,17 48:24 53:18
group's 6:24 33:17
groups 6:12 39:10
growth 4:14 31:15
guard 11:20
guess 24:10 31:24
guideline 53:8
guys 64:7

H

H 72:2,3

hand 18:23
handle 58:19 66:12
handled 63:8
happen 36:16 46:8 53:9 54:9
happened 38:11 41:23
happening 41:22
happy 21:4
hard 21:19 23:12 37:20 44:24
 56:23 66:9
hardening 72:14
hardship 21:9
head 66:25
headache 62:3
headaches 59:14
health 4:10
hear 21:20
heard 64:14
hearing 75:8
heart 29:4
HEFPA 19:17
held 7:20 8:3 9:16
help 8:23 32:14 35:21 37:11,16
 37:17 39:19 48:13 59:2 68:13
helped 46:11
helpful 35:18,21 56:13,25 66:4
 66:5 67:6
helping 39:15 53:6 70:7
hereof 75:5
hereto 75:5
hereunto 75:9
hesitant 39:23
higher 13:23 14:4,9 49:15,20
 51:5,11 52:11
highest 69:11,18
highlight 23:19 24:23 29:12,14
 57:25 71:17
highlighting 26:16
HINES 75:3,13
historic 18:24 21:10,13 38:12
 38:14
history 21:6
hit 28:16
Hochul 28:4
Hogan 24:25 25:3 45:17 49:23
 52:10
holistic 56:10
holistically 31:6
Home 19:16
homes 4:13 43:9
hope 71:5

House 70:12
households 5:25 28:6,11 30:16
 38:25
Howard 1:16 2:23,24 40:8,9
 41:14 55:9,10 67:19,20 73:18
 73:19
human 42:6
humanitarian 37:19
hundred 28:10 60:14
hybrid 35:23

I

identify 11:9
identifying 32:12
immediate 8:20
immediately 37:16
impact 4:7,25 18:13 25:24 34:15
 40:17 52:16
impacts 9:6 17:9 39:7 70:15
impede 58:4
impediments 42:13
impinged 52:22
implement 5:2 7:7,7 11:10
implementation 3:10
implies 28:11
implying 28:16
important 9:11 10:10 23:25
 24:18 26:14,16 30:2 36:20
 45:19,24 46:6 47:19 64:23
 66:11 70:15 72:11,18
imposed 4:9
imposing 19:2
improve 32:10 68:11,13 71:9
improved 32:3
improvements 19:22 32:13
inaction 9:10,12,14,22,25 14:15
 48:15,19,23 49:8,21
included 5:16 10:20 11:24 16:9
includes 19:25
including 6:7 14:9 20:7,11
 28:19 44:4 70:14
income 5:9 6:2 7:14,17 8:4,21
 9:15 10:21 11:21 12:10,13
 15:9 18:2,3 39:2 53:7,16 54:5
incomes 54:9
increase 18:14 30:4 31:17 50:16
 54:14
increased 4:22
increases 68:22
incredible 64:9

incredibly 56:22 66:9
incredulous 34:20 35:11
incremental 15:13 17:19 49:15
 50:10
incumbent 8:16 23:6
incurred 49:11
indicated 9:7
indicates 4:24
individual 20:9 68:24 69:2 72:9
industrial 44:5
ineligible 28:8
infirmaries 64:10
infirmities 62:17
inflation 43:22
inform 58:5
information 20:11 29:19 36:2,14
 57:24 64:3 66:23
infrastructure 70:19 71:2,11,11
initial 15:19
inserts 20:8
insights 29:15
insignificant 47:5
instance 52:17
instant 41:21
intact 20:22 47:17
intend 20:6
intended 68:5
intends 33:23 68:11
intense 38:13,15
interest 10:4 21:23 34:22 50:7
interested 6:12 61:16,17 64:8
interests 39:11
interim 42:16 44:7 71:6
invested 35:25
investing 50:7
investment 18:13 50:20
investor 28:23 50:7
investors 50:17
involved 10:3 35:19 39:9 61:11
 61:14 68:22
involving 71:18
Island 33:17 36:10,11,17
issuance 6:13 14:21
issue 25:2 26:2 29:22,23 40:14
 42:21 43:5,15,17 44:5,6,8,9
 45:10 46:5 47:4 48:22 50:13
 53:21 60:11 68:18 69:16
issued 5:5 14:22 22:5 29:20
issues 28:22 32:12 37:5 48:22
 56:9 57:8,12,13 60:9 67:2

71:6
item 3:8,9 55:18,24 56:17 67:21
 71:13,17,19,23 73:20
items 55:21,24 58:11 67:21
 71:17 73:13,16,20,25 74:5,7

J

J 1:17
J.U 34:4
James 1:14 2:17
January 1:6 75:10
Jeff 24:25 45:17 49:22 51:15
 52:7
job 6:2 39:2 40:10 43:7 47:3,23
 70:13
John 1:16,18 2:22 3:4
joint 34:4 37:10
July 29:14
June 4:8 5:4 8:3 12:17
jurisdiction 33:21 51:23 61:15
jurisdictions 18:9 45:24 46:2
 52:6

K

Kathy 28:4
KEDNY 13:22,22 14:4
KEDNY's 14:12
keep 25:17
keeping 14:14
key 28:23
kind 6:19 22:13,20 27:19,24
 35:22 36:19 50:16,22 58:2
 60:16 62:5
knew 63:2
knock 41:16
know 23:4 24:17,25 27:19 29:6,8
 29:17,22 31:11 32:12,15 36:9
 36:15,18,24 38:19 40:12,18
 41:15,22,23 42:2,2,4,18,22
 43:14,20 45:11,14 49:21 50:2
 50:11 51:16 53:12 54:11 56:11
 57:19,20 58:25 59:8 60:7,10
 60:21,22 61:19,19,24,25 62:22
 65:15,19 67:3,24
kudos 23:12,13

L

labeled 70:10
lack 68:5,21
language 42:11

large 25:6,10,25 26:2,10 52:22 70:20 71:6,10	69:8,8
laser 29:7 32:10	longer 37:17 53:22
lasted 40:24	look 27:8 36:9 39:25 40:4,5 44:21,22 46:16 49:10 52:16 59:22,25 62:4 63:7,19 71:8,9
lastly 39:8	looked 22:24 31:25 35:14 52:2
latest 65:19 66:7	looking 24:5 29:5 31:5 32:9 56:11 59:15 60:19 63:10,23 65:21
law 12:6 65:11,13 66:19	looks 27:2 52:17 59:9 62:4
laws 40:24 65:22,23	loss 4:12 6:2 31:13 39:2
layer 57:7,8	losses 6:2 39:3
lead 25:15,16 26:11 50:19,21	lost 36:20 45:25
leadership 70:11	lot 22:10 23:6,21 26:4 29:19,21 36:25 43:3 56:9,20 62:2,3,19 66:23
leading 18:14	love 42:16
leads 33:14	low 5:8 19:20 54:8
leaves 36:6 58:17	low-income 15:25 16:3 30:10
leaving 9:16 69:4	lower 16:9,25 34:11 50:21
led 30:3	lowered 15:22
left 11:25	lowering 16:5
legislate 41:3	lowers 18:25
legislation 65:9 70:6	lowest 9:24
legislative 40:24 41:5 65:8 70:13	lumpy 50:16
legislature 27:4 30:17 40:17 47:7	
legitimate 53:11 54:12	M
let's 3:21 43:6	M 1:12
letter 23:22 27:24	M.T.A 71:2,4
letters 20:8	M.T.A.'s 70:23
level 17:24 25:7 42:2 49:13 51:5,11,21 52:5 54:6	Madam 2:6 74:8
levels 43:12	Maggiore 1:18 3:5,6 47:25 48:2 50:24 53:2,24 54:15 55:15,16 72:23,24 74:3,4
liability 62:3	magnitude 43:2
life-support 12:4	maintain 13:23
light 72:5	maintaining 9:4,9 39:5
limited 20:8	maintenance 49:14
line 56:14	major 7:11
lip 64:2	majority 12:10 14:20 50:10
LIPA 33:6,7,10,16,19 34:11 36:4 36:17 39:22 40:2	making 31:20 37:2,4 43:24 57:18 59:11 65:3 67:25 70:5
LIPA's 33:22,24 34:2,9,23,24	manage 9:5 10:14 19:14 39:7 49:3,12,16
list 32:8	management 55:25 56:8,15 71:20
literally 37:12	mandate 27:17 70:13
litigation 27:18	mandated 67:5
little 24:24 36:3 64:2,3,4,5 66:2	mandates 43:23
local 45:2 67:25 68:4,19 69:9 69:10,17,24	manner 50:9,14 57:18
lock 60:14	March 8:15 15:3
locked 68:17	
long 21:6,19 33:16 36:10,11,17 40:19 41:19 50:12 53:19 62:25	

mark 57:11	minimizing 34:15 70:15
massive 44:8	misses 23:5
match 38:14	missing 57:11 63:17
material 17:13	mitigate 16:4
materially 16:9	model 23:2,19 57:20 60:3
materials 58:7,8	modernizations 72:14
matter 56:3	moment 3:20 6:16
matters 56:12	money 43:3 47:8 61:23
mean 27:6 31:3 46:3	MONIQUE 75:3,13
meaning 66:2	monitor 47:18
meaningful 13:11	monitoring 20:22
means 9:14 29:10 60:9,12 61:4	month 19:21 28:12 72:5,9,18
meant 9:12	Monthly 1:1,4 2:1 3:1 4:1 5:1
measures 20:24	6:1 7:1 8:1 9:1 10:1 11:1
mechanism 16:17,22	12:1 13:1 14:1 15:1 16:1 17:1
mechanisms 16:15 30:17	18:1 19:1 20:1 21:1 22:1 23:1
media 20:8	24:1 25:1 26:1 27:1 28:1 29:1
meeting 1:1,4 2:1,2 3:1 4:1 5:1	30:1 31:1 32:1 33:1 34:1 35:1
6:1 7:1 8:1 9:1 10:1 11:1	36:1 37:1 38:1 39:1 40:1 41:1
12:1 13:1 14:1 15:1 16:1 17:1	42:1 43:1 44:1 45:1 46:1 47:1
18:1 19:1 20:1 21:1 22:1,11	48:1 49:1 50:1 51:1 52:1 53:1
23:1 24:1 25:1 26:1 27:1 28:1	54:1 55:1 56:1 57:1 58:1 59:1
29:1 30:1 31:1 32:1 33:1 34:1	60:1 61:1 62:1 63:1 64:1 65:1
35:1 36:1 37:1 38:1 39:1 40:1	66:1 67:1 68:1 69:1 70:1 71:1
41:1 42:1 43:1 44:1 45:1 46:1	72:1 73:1 74:1 75:1
47:1 48:1 49:1 50:1 51:1 52:1	months 13:12 40:25 41:7
53:1 54:1 55:1 56:1 57:1 58:1	Moody's 25:9 50:3 52:17
59:1 60:1 61:1 62:1 63:1 64:1	moratorium 4:9,11,13 5:4 12:6
65:1 66:1 67:1 68:1,7 69:1,13	31:12,14,16 40:16,23,24 41:3
70:1 71:1 72:1 73:1 74:1,15	41:5,10 54:4
75:1	morning 2:3 3:16,17 4:3
members 17:23 20:6 37:21,24	move 3:8 8:24 55:19 62:23 65:20
mention 47:16 49:24 63:9 72:4	moved 53:23
mentioned 25:8,10 45:20 48:9,14	moves 49:5
48:17 50:2,14 51:3,4	moving 2:11 32:4,10
message 32:19,21,24	multi-pronged 20:2
messaging 32:22	multiple 6:11 11:25 20:6 40:13
met 64:16	municipalities 57:15 58:3,6,18
methodology 17:7	59:13 61:11,23
metrics 18:12 52:2,8	municipalities' 58:5
Metropolitan 70:21	municipality 58:9,15 68:22
microphones 6:20	mute 6:20
mics 6:21	
Mike 3:13	<hr/> N <hr/>
million 4:18,19,22 5:14,15 7:10	name 2:13 75:10
15:8,12,12,21,23,24 16:6	narrow 48:21
17:17,21 18:18 24:9 25:22	National 15:25 16:14,14,19,19
28:5,10 41:6 47:6 51:17,18,19	56:2 71:21,23
mindful 27:11 31:10,18	nature 40:16 42:6,10
minimizes 17:9	near 44:23

nearly 5:13	observation 41:15
necessarily 60:13 61:17	obviously 46:4
necessary 13:21 17:14 39:18	occasion 21:16
need 5:18 7:25 11:19,22,24	occur 40:2
12:12 26:18 31:4,18 32:14	offer 19:17 42:5 61:19
39:24 40:4 43:5 56:10 57:19	offerings 19:23
60:11 62:4 65:22,23 67:2	offers 28:13
70:17	Office 3:12
needed 14:11 60:17	officer 19:6
needing 66:2	officials 68:9,20
needs 40:15 42:15 43:4 57:5	offs 5:4
61:8	offset 63:24
negative 4:25 25:23 26:19 52:16	offsets 16:24
52:24	oh 42:6
negatively 18:12	okay 24:3 26:13 33:3 53:2,24
negotiations 61:10	54:15 56:16 65:17 66:19
net 28:19 50:14	once 41:21,23 42:7
new 1:2,9 4:8,10 14:2,9 18:13	one- 27:5
20:25 25:7,9 28:3,6,8,18,19	one-time 7:9,12,22 15:18 27:5
29:2,17 40:25 41:2 50:20	31:22 42:5
65:11,18 75:2	ones 64:10
nibbling 57:3	ongoing 72:15
non 34:6	Onondaga 71:25
non-low 7:13,17 8:4,21 9:15	operates 52:19
10:21 11:20 12:10,13 15:9	operating 19:6 49:14
18:2,3	operation 49:14
non-residential 4:18	operators 71:4
nonparticipating 34:16	opine 40:19
nonpayment 8:5,13	opportunities 63:16
nonresidential 4:21	opportunity 12:16 34:23 37:15
normal 20:20	65:4
northeast 28:22	opt 58:8 67:22 68:15
not- 33:19	optional 54:8
not-for-profit 34:9	order 2:5 3:18 4:4 5:5,7,17
not-for-profits 44:25	6:13 8:18 10:8,20,20,24 11:7
note 15:15 33:9 53:15	11:11,17 12:7,15,23 13:13
noted 17:12	14:7,21,24 16:2,18,21 17:3,11
notes 13:20	18:17,20 19:4,8,21,24 20:15
noticed 65:2	21:5 24:22,22 45:21 56:18
notices 11:25	57:2,5 58:3 60:2,17,21 62:6,8
November 69:22	62:12,24 66:20 68:11 69:6
nuanced 23:8	70:3,4 71:7
number 30:4,20 31:6 42:18 56:4	orders 56:5 67:23 68:25
56:24 71:23	original 22:18
numbers 30:7 48:17	Oswego 71:25
numerous 64:10	outcome 33:23 44:19 50:22 62:20
NYSEG 72:7	outreach 20:2,7 49:19
	outside 61:15
O	overall 10:6 13:9 14:14 18:25
obligation 65:13	29:22 36:23 39:13 60:20

overhang 25:6	percent 60:14
overwhelming 12:10	percentage 13:23 14:4,13
owed 26:5 30:6	perfect 23:17
ownership 57:13 59:11	performance 47:19
ownness 63:12	period 7:15,16,19,21 8:14,24 12:12,25 13:2 34:5 35:8 36:2 41:13
P	
p.m 1:7 74:15	periods 21:8
P.S.C 27:8 30:9,16 33:8	permanent 54:4
packing 57:4	personal 43:18 44:15
Page 75:5	perspective 22:9 33:12
pages 75:6	petition 71:23
paid 42:24 49:6 58:12	petitioners 63:13,13
pandemic 4:7,16 5:19,23 10:24 13:8 20:13 21:18 30:3,9,11,18 37:13 46:4 48:25	petitions 17:3 62:21,22 63:3
paper 23:5 56:19	phase 3:10 5:6,6,12,17 6:13 7:2 7:7,9,21 8:19,23 9:6,7,9,13 9:20,22 10:9,11,13,18,25 11:12,13,14 12:25 13:2,5,10 13:15,20 14:3,17 15:6,7,21,22 16:4,6,7,8,25 17:5,8,11,12,16 17:22 18:5 19:25 20:3,16,22 20:23 21:15,16 23:23 24:14 29:21,21 30:12,24,25 31:9 32:16,17,23,25 33:18,24 34:2 34:3,12,14,23 39:7 46:17,18 46:21,25 47:6,9,18,18 51:16 51:17,20 54:22 72:8
parameters 34:3	PHILLIPS 2:8 74:10
part 39:18 41:11 43:4 46:8 54:3 56:25 58:8,24 59:24 61:16,25 62:15 64:7 65:6 66:19 71:6,20	phrase 40:12
participant 70:7	pick 36:18
participants 21:21 58:12 68:9	picked 32:6
participate 33:9,17 69:17	pinpoint 25:12
participated 36:12	pivoted 22:17
participation 68:5,14 69:11,18 69:23	place 43:16 72:19 75:4
particular 40:17 41:16 42:9 69:6 70:20 71:12	plan 14:18 28:4,7,13,15,18 37:11
particularly 42:8 44:24 70:12 70:22	plans 16:10 20:2
parties 70:18	Plant 71:20
parts 23:25	please 2:13 3:14,21,22 6:19
pass 70:8	pleased 36:23
path 24:2 71:21	pleasure 40:23
pathway 15:14	plus 31:24 41:7
pause 6:16 20:19 34:19 65:6	point 26:14 29:3 38:21 43:5,11 45:25 46:6,12 56:4 68:24 70:17
paused 32:5	pointed 41:12
pay 24:8 26:6 30:21 31:7 37:12 41:18,20,24 43:6,25 48:13 49:3 53:6 69:15 71:2	points 43:14
paying 13:12 29:8 30:5 53:5 54:8	policies 66:15
payment 9:2 10:16 12:2,15 19:13 19:17,19,20,23 20:11,12 49:17	policy 6:9 29:15 70:6,11
payments 19:21	political 29:3
people 27:11 35:24 37:11 39:20 44:19 54:8 60:4 61:20 63:6 69:11,17	
people's 57:14	

<p> politics 70:10 portion 13:7 42:12 position 10:14 22:16,18 70:19 positions 22:14 positive 25:25 26:8 28:19 44:18 50:14 possible 11:16 37:25 39:20 41:9 70:14 postings 20:9 potential 8:10 63:14,23 potentially 48:19 poverty 53:8 54:6 power 33:20 34:10 practical 14:19 Practices 19:16 present 2:13,15,18,21,24 3:3,6 presentation 7:6 21:2,4 22:3 45:20 47:16 48:3,9 54:17 presented 3:11 presents 7:2 37:14 presidency 69:20 presidential 69:19 pressure 28:24 43:20 44:17 53:13 pretty 38:2 previous 54:11 67:23 previously 8:4 15:23 46:23 price 61:20 prices 6:6 68:17 pricing 58:13 60:11 primarily 70:24 prime 43:19 principal 24:9 prior 4:16 11:6 13:7 30:8 priorities 32:8 proactively 9:5 39:7 probably 27:18 38:10 42:24 61:22 problem 6:8 18:19 60:11 62:22 65:14 68:10 problematic 42:20 procedural 62:17 64:11 proceeding 8:9 16:18 35:2,8 proceedings 16:13 62:10 75:7 process 11:8 21:20,21 22:8 32:22 53:17,18,19 57:16,22 60:22,23 61:2,9 66:11 68:12 68:13 processes 9:18 12:20 20:21 produced 62:23 </p>	<p> product 63:11,24,24,24 products 61:14 63:14,23 profound 4:7 38:13,14 program 3:11 5:6,11,12 7:8,9,21 8:23 9:15,20,23 10:9,13,19 11:13,14 12:25 13:3,4,5,10 14:14,18 15:7,22,25 16:4,5 17:2,5,6,8,10,22 20:3,16 24:14 26:3 28:9 30:10 32:10 32:16,18 33:2,19,24 39:7 41:16 42:21 43:2 47:2 51:6 54:23 56:2 58:8,12,14,16,24 70:2,16 71:7 program's 9:6 programs 5:10 16:8 20:23 32:2,4 34:3 46:23 47:22 56:8,15 59:12 project 71:22,24,24 projected 9:24 projects 71:19 72:8,9,12,14 proposal 5:21 24:15 34:2,12,24 34:25 63:18 proposals 64:25,25 propose 18:4 33:24 proposed 9:25 10:9 11:12 16:16 16:21,25 17:6 28:18 34:3 54:22 56:17 proposes 15:21 proposing 8:7 51:18 protect 4:10 14:22 66:10 protected 4:11 31:12 prove 68:17 proved 70:9 provide 3:19 4:5 7:9,13,24 8:20 12:18 15:8 17:16 34:10,14 37:15 provided 5:15 10:24 14:2 18:8 45:22 48:23 51:16,22 providing 5:14 10:7 13:11 14:11 14:20 39:14 provision 13:6 68:15 provisions 67:22 prudent 30:19 31:5 PSE&G 33:6,7,10,16 36:10,11,17 39:22 40:2 public 1:3 2:4 21:23 29:18 33:20 34:10 44:18 48:6,11 54:3 56:18 68:13 70:6,11 72:20 pull 23:7 </p>
--	---

punting 62:25
purchases 68:2
purpose 10:13 11:3 20:22
purposes 62:12
pursuing 16:12
push 60:3
put 22:9 23:24 27:18 32:2 53:13
 63:12,14

Q

qualifying 7:15,19
quality 18:12 51:25 52:8
quarter 33:25
question 45:17 48:13 50:25 53:3
 53:25 54:6 64:11 67:13
questionable 68:3
questions 3:14 21:2 22:4 48:4,5
 67:16
quick 71:17
quickly 11:16 44:14
quite 6:21 45:15 62:16
quo 9:5,9 31:9 39:6
quotes 56:25
quoting 37:23

R

rails 66:12
raise 46:7,13 63:22 72:16,19
raised 21:18 45:11
ramifications 27:12
range 9:10
rapidly 71:9
rate 16:10,13 28:16 51:7 52:21
 52:21 60:13 64:21
ratemaking 70:5
ratepayer 18:23 70:15
ratepayers 10:6 13:10 19:2,3
 28:7 37:14 39:13 44:4 48:15
 48:19 54:13 70:24
rates 53:14 54:14
rating 25:5 26:10 43:12 50:16
ratings 24:7,21 50:6 52:18
rational 37:15
reach 11:15
read 28:3 29:24 33:13 50:3
reading 38:17,22
ready 35:4
real 35:4 42:13,14 61:5,22
reality 46:11 63:6
really 22:6,9,16 23:9,18 24:4

26:14,18 27:10,15,19,24 29:6
 29:20 30:2 31:2 36:23,25 38:7
 39:16,18 42:15,15 44:21,22
 47:11,19 48:21 56:10 57:7,19
 58:2 59:14 60:11,20 62:18
 63:12 65:20 66:19,24 67:2
 72:11
reason 35:7 36:4 61:16 65:7
reasonable 11:20 13:6 53:20
reasonableness 9:19
reasoned 30:23
reasons 6:7 46:20
REC 63:24
recall 47:6
recap 51:20
receive 10:11 14:5
received 11:25 48:12 53:4
receiving 11:22
recognize 33:7 50:18 56:7,22
recognizing 24:15 59:18
recommend 7:22 53:5
recommendation 8:20 51:10
recommendations 7:3,5 10:19
 32:2 54:2 55:18 73:5 74:7
recommended 14:8 15:17
recommends 3:19 4:5 8:18 10:8
 10:21,25 11:7,12,17 12:7,15
 12:23 13:13,15 14:3,7,25 16:2
 16:18 17:4 18:17,21 19:4,21
 20:15
reconcile 16:11,12 43:11
reconciliation 8:8 16:13,15,17
record 45:12 48:12 53:4 62:13
 62:15 75:7
recover 5:25 6:4 17:4 39:2
 49:10
recoverable 54:13
recovered 15:20 16:5 38:21,21
 53:14
recovering 17:10 34:17
recovery 5:23 17:7 38:19,23
recuse 55:20
reduce 30:17,20 31:6
reduction 3:10 5:6 18:11 52:14
 54:23
reemphasized 40:15
refer 4:15 5:10 6:10 7:8
referencing 56:5
reforms 56:24
regard 45:18 46:14

<p>regarding 12:13,21 17:24 20:10 50:4 70:19</p> <p>regardless 12:19 43:21 44:17</p> <p>REGI 63:24</p> <p>regular 3:8</p> <p>regulate 33:7 39:25 40:5 66:4</p> <p>regulated 13:24 14:14</p> <p>regulatory 18:14 27:6 29:2,9 52:18 66:10</p> <p>reinstated 12:17</p> <p>reinstatement 8:2</p> <p>related 18:6 22:23 24:11,17 33:6 43:22 54:2 56:12 58:14 65:16 72:7</p> <p>relates 3:9 31:20 62:11</p> <p>relationship 46:9</p> <p>relatively 42:17,23 45:7 46:21</p> <p>relevant 33:11</p> <p>reliance 19:9</p> <p>relief 3:19 4:5 5:14 7:8,13,24 8:21 9:14 10:7,24 11:15,22 12:12 13:25 14:5,11,24 15:8 18:5,24 19:11 23:23 28:4,6,10 28:11,14,14,15,16,18,24 31:3 33:18,24 34:14 39:14 48:23</p> <p>remain 13:7 20:21 30:13 43:18 47:17 63:13</p> <p>remaining 5:18 14:12 19:12 20:17 26:6</p> <p>remains 5:23 28:23 38:24</p> <p>remarkable 37:10</p> <p>remember 69:21</p> <p>reminding 27:3</p> <p>removing 50:10</p> <p>renewable 60:14,15</p> <p>repeatedly 25:8,10</p> <p>replace 72:2</p> <p>report 7:2 9:10,14 11:2,13 13:15,20 14:3,17 15:6,21 16:7 19:25 22:5,6,8,12 23:5,10,24 29:15,20 30:2 33:13,23 38:8 38:18 48:4 51:20 54:17,19</p> <p>reported 9:7 75:4</p> <p>Reporter 75:13</p> <p>reports 8:19 19:6 25:9 30:6 42:17</p> <p>represent 21:17</p> <p>representing 17:18</p> <p>represents 7:20</p> <p>require 8:7</p>	<p>required 16:23 19:5 70:25</p> <p>requirements 58:9</p> <p>requires 11:5,6</p> <p>requiring 52:22</p> <p>research 27:23 52:3</p> <p>reselling 68:16</p> <p>reservation 67:7</p> <p>reserve 34:17</p> <p>reset 60:2 62:6,12</p> <p>residences 39:15</p> <p>residential 4:11,17,20 5:8,13 7:13,17 8:4,12,21 9:15 10:21 11:20 12:10,13 14:25 15:9 18:2,3 20:19 31:12 34:6 44:4 46:22</p> <p>residents 54:5 59:2 68:6</p> <p>residual 15:13</p> <p>resolution 18:19 31:3,22 60:23 61:2,9</p> <p>resolve 20:16</p> <p>resolved 8:6 13:19</p> <p>resolving 17:15</p> <p>resonated 22:10</p> <p>resources 58:18</p> <p>respect 7:21 12:8</p> <p>respectively 4:23</p> <p>response 44:23 54:11</p> <p>responsible 71:4</p> <p>responsive 37:5 65:11</p> <p>restore 20:20</p> <p>result 4:6 18:11 28:25 30:14 43:23 50:15</p> <p>resulted 4:13 20:13 31:14</p> <p>resulting 10:23</p> <p>results 22:13</p> <p>retain 19:14</p> <p>rethink 57:19 62:5</p> <p>return 52:14,21</p> <p>review 16:23 30:6 71:7</p> <p>Richard 3:13 37:23 40:10</p> <p>Rider 3:11,16,22,24 4:3 6:17,23 31:23 48:20 51:14 53:10 54:10</p> <p>riders 42:22</p> <p>ridiculously 69:8</p> <p>right 35:5 51:13 65:12 67:4</p> <p>risen 21:16</p> <p>risk 27:19 37:22 50:11 68:16,19</p> <p>road 66:24</p> <p>roadmap 37:16</p> <p>roll 2:12</p>
--	--

room 35:24
RORY 1:12
rose 6:6
rosy 59:8
rough 57:18
roughly 41:6
round 54:4
run 58:23
running 5:25 38:25

S

S 1:14
S&P 25:9 50:3
Safe 74:14
safety 4:10
salt 25:18
SAPA'd 65:2
save 25:17 62:9
savvy 50:17
saw 31:10
saying 24:20 31:24 32:17 36:8
 56:21 63:4 64:12
says 30:3 58:4
scenario 13:25
screen 11:23
screens 11:18
second 5:21 49:7
secretary 2:6,8 19:7 74:8,10
Section 60:25
sections 65:11
securities 27:23
see 28:17 41:21 42:16 61:23
 62:17 63:7 66:20
seeing 44:22 58:21
seen 26:7 52:15 57:14
sense 23:10 27:19 59:16
separate 36:3
service 1:3 2:4 6:5 7:11 8:2,5
 8:13 10:17 12:14,17 19:15
 29:18 30:5,15 34:10 41:4
 56:19 61:18 64:3 69:3,4
services 3:12 4:12 21:8 31:13
session 2:4 48:7
sessions 62:14 72:21
set 13:17 54:2
setting 60:22
settle 51:12
seven 7:3 8:12 13:12
shape 47:5
share 27:20 58:7

shared 45:8
shareholder 17:13,17,20,24 18:8
 18:10,18,21 24:10 27:13 28:2
 34:13 35:18 36:9 45:10,23
 51:5,11,17,18,21,25 52:3,23
shareholders 18:4,20 34:12 36:8
 37:14 43:12 49:9
sharing 35:25,25
sharply 6:6
sheltered 4:12
short 42:17 68:14
shortly 29:24
show 64:6
showcasing 67:3
showing 64:13
shows 30:7
shut 5:4
shutoffs 30:15 54:5
side 55:25 56:8,15
significant 17:13 18:8,24 22:11
 27:18 30:7,12 38:12,14 45:22
 47:8 49:13
significantly 13:23
silver 56:9
similar 54:11 57:20
similarly 60:24
simple 11:4 32:22
simultaneously 36:5
sister 61:12
sit 36:22
situation 25:20 30:15 40:20
 59:23
Six 8:7
size 58:22 68:22
slight 25:22,24
slightly 52:15
slow 5:23,25 38:24 39:2 59:24
small 7:14,17 8:22 9:15 10:22
 11:2,3,21 12:11 13:6 15:10
 18:3 34:6 37:11 42:23 46:8
 69:14
Smart 71:21
snapshot 22:20 28:3
social 20:8
sociology 41:19
solution 6:14 9:25 27:6
solutions 23:16
solved 26:2 57:17
somebody 48:13
soon 14:19

sort 22:9,12 23:17 24:9,23
 27:25 29:4,7,11,22 30:23 31:8
 31:19 46:25 53:17
sound 30:23 37:16
source 47:10
space 57:10 60:6
speak 24:24 25:4 34:24 67:21
speaking 71:5
specific 10:19
specifically 13:22 72:7
spent 72:5
spin 66:7
splitting 40:11
spoke 31:11
spoken 62:14,16
Spring 68:7,9
staff 5:19 16:23 21:2 23:5
 24:24 29:18 31:25 33:22 36:25
 52:2 56:18,19,22,22 63:18
 66:6,9 70:11 71:5
stakeholder 6:12
stakeholders 5:20 10:2 18:4
 26:24 32:20 34:22 35:19 37:2
 39:9 42:3 51:5
standard 21:17
start 31:24 32:17 34:21 35:7,8
 48:9 51:14 56:21
started 35:2 57:21 62:11 66:22
state 1:2 4:8 6:11 23:21 24:3,4
 24:5,17 26:25 27:25 28:5,23
 29:17 33:12 40:25 41:3,5
 44:25 45:2 46:5 50:7 51:15,23
 53:10,21 57:12 58:23 59:10,23
 61:24 66:15 69:19 70:5 75:2
state's 5:22 13:24 14:13 28:15
 28:17 38:23
stated 19:10 30:2 33:13 75:5
statement 25:14
states 14:17 46:3,4 52:4
statewide 9:8 15:7 16:5 18:25
 19:2 32:21
stating 23:24
status 9:4,9 31:9 39:6 42:12
steel 72:2
stepped 27:13
steps 30:19 31:5,20
stipulates 28:15
stop 66:22
storm 72:14
straight 43:18

straining 6:3
streamline 13:3
stressful 30:16
strong 54:18 56:20 62:7
struck 18:21 58:2 59:17
structure 34:9 64:21
structures 72:2,3
struggle 5:24 26:22 38:24
struggling 4:6 10:5 39:12
stuff 23:6
subgroup 42:9 43:24
subject 7:23 33:21 68:8
submit 34:23
submitted 12:5 19:7,9 23:22
 35:12 36:12
subscribed 75:10
suffer 24:7,21
sufficiently 12:9
suggestions 56:24
suite 72:8
Sullivan 3:13
sum 47:8
Summa 3:14
summarized 33:23 46:15
summary 7:4
supplemented 34:13
supplied 50:20
supply 50:17 68:2,16
support 13:11 21:21,23 22:7
 28:7 47:7
supported 10:2 39:9 51:5
supporting 67:12
supportive 33:22
supposed 63:10
surcharge 17:5
sure 3:21 6:17 25:3 31:20 35:3
 35:6 37:2,4 42:3 44:16 45:15
 45:20 46:2 59:11,14 72:17
surrounding 19:23 40:13
suspend 8:12 14:25
swift 13:11
system 57:16

T

table 44:12
tackle 56:10
tailored 19:18
take 20:15 34:19 37:22 40:3
 46:3 48:20 50:12 53:22 57:12
 58:15 59:22 63:16 72:19

taken 19:8 25:18 26:7 49:8
talk 25:19 33:19 34:21 40:23
 58:2 60:9,20 66:14 68:23
 72:10
talked 31:11 45:14
talking 35:12 72:6
tangent 50:22
target 34:4
task 40:11 46:19
team 40:10
tell 27:8 38:10 43:18
tens 41:17
term 37:17 42:17 44:23
terminated 8:5 49:4
termination 6:5 9:3,18
terminations 8:13 10:17 15:2
 20:19
terms 19:20 32:15,16 40:17
 47:21 50:11 52:3,7 59:10
territories 7:11
testament 37:20 47:13
thank 2:10 3:7 4:2 6:21 21:3,19
 21:24 22:2 26:14 29:12,14
 33:4,4 37:6,7,9 38:4,6 40:5,7
 40:9,10,21,22 41:14 44:21
 45:2,4,6 47:24 48:2,3 49:23
 50:24,25 53:2,24 54:15,16,16
 54:19,20 55:17,23 56:16 67:7
 67:9,11,14,17,18 71:14 72:21
 72:22,25 73:3,10,14,17,22
 74:6,12,13
thanks 47:23
thing 25:12 26:8 29:13 39:16
 46:13 47:20 49:11 50:15,17
 52:10 65:12,16,18 66:22 67:4
 69:16
things 22:4,23 23:7,11,20 24:11
 24:17 25:19 29:8 32:11 38:18
 40:14 48:8 57:9 58:2,20 59:5
 59:6,22 61:10,19 62:5 63:22
 63:22 64:22 65:8 69:9
think 21:9,10,14,22 23:18 24:18
 24:22 25:4,14,18 26:9,14,16
 26:21,23 27:2,10,16 29:4,20
 30:2 31:18 33:14 35:10,20
 37:23 38:15 40:14 41:25 42:6
 42:7,14 43:3,15 45:18,24 46:6
 46:8 47:3,12,19 48:5,21 54:10
 54:18 56:7,13,23 57:3,4,11,17
 57:23 58:17 60:4,25 61:21
 62:17 64:14 66:9,11,23 69:12
third 6:19 49:11
thorough 48:4 54:17
thought 30:22 62:6
thoughtful 30:23 39:17 57:5
thoughtfulness 61:8
thoughts 31:19
thousands 41:18
three 7:22 12:3 48:22
threshold 53:16
Thursday 1:6
tied 31:17 58:15
till 34:20
time 14:23 16:23 17:10 20:5,18
 22:11 27:6 34:18 35:5 36:2,16
 41:4,13,19 46:10 53:19 61:6
 62:9,19,25 69:8,20 70:9 71:9
 72:6 75:4
times 23:4,13 40:13
today 3:11,18 4:5,15 5:12 21:5
 21:11,16,22 35:15 36:13 39:19
 40:20 68:17 72:16,17 74:9,11
Tom 3:13
tomorrow 68:18
tool 56:8
top 3:24,25 17:20
total 15:13 51:19
totaled 4:17,19,20,22
town 69:13,20
Tracey 1:15 2:20
track 68:8
traditional 64:20
transcription 75:6
transmission 71:18,24 72:7,12
Transportation 70:21
travels 74:14
treating 58:17
treatment 12:18
tremendous 47:3
trickle 59:24
tried 32:21 63:5 64:13
tries 24:23
trouble 30:5
troubled 36:15
troubling 68:6 70:22
true 38:2 39:4 75:7
try 23:7 32:13,24 49:3 57:9
trying 57:7 59:12,14 60:2 63:14
 64:4 65:12 66:9,10 67:4
turn 52:7

two 7:19 12:2 21:15 24:11 28:10
46:16,20 48:7 54:3 60:5 67:20
71:17 72:16

two-staged 5:3

type 49:19

typewritten 75:6

U

U.B.B 60:24

Ukraine 6:7

ultimate 44:19

ultimately 18:15 26:20 30:14

49:6,19 53:21 54:14 63:2

unaffordable 49:2

uncollectable 8:8 16:11

uncollectible 16:9,16 53:11

uncollectibles 49:5 54:12

undemocratic 67:24

understand 9:12 13:5 22:16

31:21,21 35:17 39:24 42:4

44:16 57:7 64:5

understanding 20:3 27:11 32:25

32:25 33:11 60:18 61:4,5

65:24 66:3,5

undertaken 12:8

undue 19:2

unduly 11:9

unemployment 39:3

unfair 58:23

unfortunately 5:22 38:23 42:5

unintended 27:20 31:16

union 37:13

universe 46:21

unpaid 4:14 31:15

unprecedented 4:14 21:14 27:14

31:14 40:12 44:8

unrealistic 70:19

unresolved 12:2

up-to 7:23 13:14,16 14:8 20:4

upgrade 25:16 72:12

upgrades 72:13

upper 53:13

upward 43:20 44:17

use 16:2 61:3

user 12:4

usurps 70:8

utilities 5:7 6:11 7:12 8:7

9:21 12:19 13:24 14:14,18,23

14:25 16:10,10 17:4,14,15

18:7,10 19:5,10,17,22 20:9,20

24:6,20 27:13 28:19 34:4

35:18 37:14,17 39:25 40:5

43:7 44:25 45:21 46:10 49:9

49:12,15 50:18,21 51:16,20

52:25 53:12 64:24 72:15

utility 4:6,8,9,12,14 5:4,9,9

7:8,23 8:16,25 9:17 10:5,14

13:12,16,17 17:20 20:14,17,24

24:12 26:19 28:5,9,15,17,25

29:17 30:4,5,6,8,20,21 31:7,7

31:13,15 33:20 34:10 39:12

41:4 52:18 53:7 54:4 60:13

61:18 68:2 69:4 70:24

utility's 18:12 19:5

utilization 18:22

utilize 20:6

utilized 32:19

utilizing 34:16

V

Valesky 1:17 3:2,3 45:5,6 51:4

55:12,13 71:15,16 73:23,24

validation 53:18

valuable 22:25

value 27:15 48:6 63:15

variety 6:6 42:13

vast 50:10

vehicle 64:22

vehicles 70:20

verification 11:6

verify 19:5

versus 46:17

vetoed 65:22

views 18:13

vigorous 71:8

village 69:21

villages 69:21

vital 4:12 19:14 31:13

voluntarily 27:13

voluntary 36:13

vote 39:19 54:21,21,24 69:22,22

73:4,4,6,7,12

voted 56:6,12,15

voting 36:24 38:3 54:18 55:21

64:18,23 70:2 71:13 73:19

W

wait 35:6,7 36:17

waiting 34:20 40:3

walks 22:14

walls 46:24
want 21:18 22:5 23:11,11,19
 29:24 39:21 49:21,24 51:9
 56:21 59:6,21 70:4,5 71:17
wanted 29:13 35:6 45:16 46:12
 46:13 60:4 72:16
wants 52:8 69:2
war 6:7
wasted 62:19
way 22:8 35:23,23 36:13,13 37:3
 39:20 47:2,5 56:11,15 57:5,23
 59:7,15 60:19,24,24 63:5
 64:14,15 66:4 67:3 68:14
ways 21:17 46:16 47:12
we'll 3:7 21:24 27:8 32:23,24
 34:22 35:22 54:21 55:19 72:17
 73:4
we're 6:20,20 27:5 29:5 30:25
 31:8 32:5 40:20 44:7 57:4,10
 57:11 58:21 59:20 61:3,11
 63:3 64:12 65:7,17,18,20
 66:18,24 67:4
we've 41:2 63:5,12
websites 20:9
weigh 65:4
weighted 25:19
well- 30:22 46:21
went 41:5,7,12
wheels 66:7
WHEREOF 75:9
whichever 8:16 15:4
white 23:5 56:19 70:12
wholly 70:18
widely 10:2 39:8
wind 60:5
wish 55:20 58:4 69:5
WITNESS 75:9
wonder 31:19
wonderful 58:25 59:8
wondering 48:16
wooden 72:2
word 21:9
words 38:11,14
work 5:20 6:25 21:14 32:5,17,23
 36:25 37:21 44:11 45:3 47:13
 47:14 49:12 61:5 64:14 68:12
 68:12 72:15,18
workable 23:16
worked 22:21 23:12 29:18 32:18
 53:18 56:22

working 6:9,10,12,23,24,24 9:20
 10:3 11:18 17:23 20:6,21
 22:11,24 23:14 26:24 29:18
 32:7,9,18 33:10,17 35:19
 37:22 39:10 42:15 45:14 46:9
 46:19 47:14,17 48:24 53:18
 64:8 66:9
workings 32:3
worldwide 37:13
worried 65:21
worth 20:14
wouldn't 41:10
wrap 30:23 33:5
writing 34:24

X

X 1:13 42:18

Y

yeah 42:6 49:23 67:20
year 5:16 17:19 27:2 28:8,11
 31:24 54:4
years 21:15 69:19
York 1:2,9 14:2,9 18:13 20:25
 25:7,9 28:3,6,18,19 29:2,17
 40:25 41:2 50:20 75:2
York's 4:8 28:8
Yorkers 4:10

Z

zero 19:20

0

0.5 17:9

1

1 5:6,6,12,17 6:13 7:21 11:14
 12:25 13:2 16:7 17:8,11,22
 19:12 20:18,22 21:15 29:21
 30:12,24 32:17 41:7 46:17,21
 47:6,18 51:16 72:8 75:5,6
1.010 9:23 15:14
1.011 9:10
1.346 9:11
1.7 4:20
1/19/2023 1:1 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	75:10
36:1 37:1 38:1 39:1 40:1 41:1	23rd 6:25 75:10
42:1 43:1 44:1 45:1 46:1 47:1	25% 52:16
48:1 49:1 50:1 51:1 52:1 53:1	250 5:14 28:11 47:6
54:1 55:1 56:1 57:1 58:1 59:1	250% 53:8 54:5
60:1 61:1 62:1 63:1 64:1 65:1	261 56:17 62:7 67:21 73:8,20
66:1 67:1 68:1 69:1 70:1 71:1	263 62:8 64:18 73:9
72:1 73:1 74:1 75:1	2A 71:21
10 19:20	
10,000 68:23	<hr/> 3 <hr/>
10:30 2:2	3 1:8
10:31 1:7	30 8:15 15:3 16:20 19:24
100,000 68:24	30th 8:3 12:17
101 17:17 18:17 25:21 51:18	340,000 5:13
11.1 15:23	36 51:16
117 4:19	36.2 17:21
12:14 1:7 74:15	365 71:19
137 51:19	370 71:23
14-M-0565 3:9	372 64:19 70:4 73:9
150% 4:22	<hr/> 4 <hr/>
154% 41:12	453% 4:23
162 55:24 73:8	478,000 15:9 39:15
169 15:11,12	<hr/> 5 <hr/>
16th 5:5	5 15:24
18 40:25 41:6 72:2	5% 42:23
19 1:6	50 46:4
19th 1:8	502 5:14
1st 7:20 8:15 14:6 15:3	56,000 15:10
<hr/> 2 <hr/>	<hr/> 6 <hr/>
2 3:10 7:2,7,9 8:19,23 9:6,7,9	60 4:17,18,20,21
9:13,20,22 10:9,11,13,18,25	647 4:22
11:12,13 13:5,10,15,20 14:3	672 7:10 15:8
14:17 15:6,7,21,22 16:4,6,8	677 4:17
16:25 17:5,12,16 18:5 19:25	<hr/> 7 <hr/>
20:3,16,23 21:16 23:23 24:14	735 24:9
29:21 31:2 32:16,23 33:2,18	74 75:7
33:24 34:2,3,12,14,23 39:7	75% 7:16 13:17 14:2 34:6
46:18,25 47:9,18 51:17,20	75,000 28:7
54:22 72:8	780 41:6
20 28:12	<hr/> 8 <hr/>
200 28:5	8 60:25
201 3:9 63:8	800,000 28:6,11
2019 65:16 66:23 71:7	824 16:6
2020 4:8	841 15:20
2022 4:19 5:5 6:6,25 7:20 8:5	
12:15 14:6 17:19 19:12 20:18	
29:14 49:11 52:12	
2022-2023 5:16	
2023 1:6 8:3,15 12:17 15:3 34:2	

<hr/> 9 <hr/>	
90 14:21	