1/19/2023 - Monthly Meeting

STATE OF NEW YORK

PUBLIC SERVICE COMMISSION

MONTHLY MEETING

Thursday, January 19, 2023

10:31 a.m. until 12:14 p.m.

ESP, Building 3, 19th Floor Boardroom

Albany, New York

COMMISSIONERS:

RORY M. CHRISTIAN, Chair

DIANE X. BURMAN

JAMES S. ALESI

TRACEY A. EDWARDS

JOHN B. HOWARD

DAVID J. VALESKY

JOHN B. MAGGIORE

1/19/2023 - Monthly Meeting

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

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

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

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

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

COMMISSIONER BURMAN: Present.

CHAIRMAN CHRISTIAN: Commissioner James Alesi?

COMMISSIONER ALESI: Present.

CHAIRMAN CHRISTIAN: Commissioner Tracey Edwards?

COMMISSIONER EDWARDS: Present.

CHAIRMAN CHRISTIAN: Commissioner John Howard?

COMMISSIONER HOWARD: Present.

CHAIRMAN CHRISTIAN: Commissioner Dave

Valesky?

COMMISSIONER VALESKY: Present.

CHAIRMAN CHRISTIAN: Commissioner John Maggiore?

COMMISSIONER MAGGIORE: Present.

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

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

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

MR. RIDER: From the top.

CHAIRMAN CHRISTIAN: From the top.

Thank you.

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

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

This clearly indicates that many customers experienced the negative financial impact of COVID-19. The commission decided to implement a two-staged approach to address the arrears associated with the moratorium on utility shut offs. On June 16th, 2022 the Commission issued an order authorizing the Phase 1 arrears reduction program or Phase 1 order directing the gas and electric utilities to apply credit to the accounts of residential low income utility customers enrolled in utility bill discount programs or what I will refer to as Energy Affordability Program or E.A.P.

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

Unfortunately, the State's economic recovery from the COVID-19 pandemic remains slow as businesses continue to struggle to get back up and running and some households are slow to recover from loss of income due to job losses, furloughs or under employment. Further straining energy affordability and the ability of customers and arrears to recover and avoid service termination is the fact that commodity prices rose sharply in 2022 for a variety of reasons including the war in Ukraine.

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

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

MR. RIDER: Sure.

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

MR. RIDER: The working group -- the working group culminated on -- the working group's work culminated on December 23rd, 2022 through the filing of the Phase 2 arrears report which presents seven recommendations for commission consideration. The following is a brief summary of the recommendations and I will expand on each of these later in the presentation.

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

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

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

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

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

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

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

The draft order recommends the Commission adopt the Phase 2 arrears reports recommendation to provide immediate and automatic arrears relief for residential non-low income customers and small commercial customers. The application of the Phase 2 program credits will help most eligible customers move past their COVID period utility arrears and allow all customers in arrears to enter into more affordable deferred payment agreements to avoid termination. The course of action is less expensive than maintaining the status quo and allows the Commission to proactively manage the Phase 2 program's bill impacts to customers.

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

To evaluate the reasonableness of the Phase 2 program, the working group compared having the utilities taking an alternative course of action to the cost of inaction and designed a Phase 2 program with the aggregate cost of 1.010 billion which is at or below the lowest projected cost of inaction. Furthermore, this proposed solution is widely supported by the stakeholders that have been involved in the working group and equitably balances the interest of customers that are economically distressed and struggling to afford their utility bills against the overall cost to all ratepayers of providing such relief to customers.

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

Next I will explain the Phase 2 program and some of the specific recommendations included in the draft order. The draft order recommends that all residential non-low income customers and certain small commercial customers that have accrued arrears resulting from the COVID-19 pandemic be provided relief. The draft order recommends the Commission adopt the Phase 2 arrears report definition of small commercial customers for the purpose of determining eligible small commercial customers because such definition is simple to administer, requires no customer application and requires no prior verification of data.

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

The draft order recommends that the eligibility screens used by the working group to determine financial need for customers in arrears are reasonable and guard against residential non-low income and small commercial customers that may not need relief receiving a credit. The eligibility criteria used to screen customers to determine financial need included customers that, one, have received multiple disconnect notices that were left unresolved. Two, with an active payment agreement. Three, that are coded as either blind, elderly or disabled or as life-support equipment user. Or, four, that have submitted a financial assistance assentation under the COVID-19 moratorium law.

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

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

Regarding the eligibility of eligible arrears and the arrears credits to be applied to those arrears, the draft order recommends that the same definition of eligible arrears be used as in the Phase 1 program and that the covered period aligned with the adopted cover period from the Phase 1 program for consistency, to be fair, to streamline the administration of the program and to make the Phase 2 program easy to understand for customers. The provision is reasonable because only a small portion of customers' arrears still remain prior to the beginning of the pandemic.

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

The Phase 2 report notes, however, that a different approach is necessary for Con Edison and KEDNY. Specifically, Con Edison and KEDNY would maintain significantly higher arrears on a percentage basis than the State's other regulated utilities under the scenario where full arrears relief is provided for 75% of eligible New York City based customers. The Phase 2 report thus recommends that a higher percentage of Con Edison and KEDNY customers receive full relief for arrears accrued through May 1st, 2022.

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

The Phase 2 report states that the utilities plan to apply program credits to eligible customers as soon as practical with the goal of providing the credit to the majority of customers within 90 days of commission issuance of an order. To protect customers while credits are being issued and to allow adequate time for the utilities to apply the arrears relief credits, the draft order recommends the utilities suspend residential terminations while credits are being applied to accounts through March 1st, 2023 or 30 days after credits have been applied to the account, whichever is later.

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

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

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

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

The other offsets these companies proposed to lower the -- the cost of the Phase 2 program will be addressed when the Commission addresses these petitions. The draft order recommends the utilities be allowed to recover the Phase 2 program costs through a surcharge up to the estimated program budget. The -- the proposed recovery is consistent with the methodology the Commission adopted for Phase 1 program costs and minimizes the bill impacts to approximately 0.5% by recovering the program costs over time.

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

Several members of the working group expressed concerns regarding the level of shareholder contributions being committed to addressing the arrears accrued by residential and non-low income or by residential non-low income and small commercial customers. Stakeholders propose that shareholders contribute more to the Phase 2 arrears relief credits and related carrying costs.

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

The draft order recommends the $101 million shareholder contribution is an equitable resolution of the arrearage problem between shareholders and customers. The draft order recommends the balance struck between shareholder contributions and utilization of other deferrals on the one hand and ratepayer contributions on the other achieves historic and significant arrears relief statewide and lowers overall future costs to ratepayers statewide without imposing undue burdens upon ratepayers.

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

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

The Phase 2 arrears report includes

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

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

CHAIRMAN CHRISTIAN: Thank you, Aric. Appreciate the presentation. I'm happy with what's before us today in this order because these efforts to address the arrears build out a long history of the Commission's efforts to ensure customers have continued access to energy services during periods of financial hardship. I think you used the word historic and I think that's an accurate description of what's before us today.

The challenge created by COVID-19 has most certainly been historic and created some unprecedented challenges, and I think the work that you've done over the past two years both for Phase 1 and Phase 2 today have risen to the occasion and in many ways represent a standard for addressing these challenges raised through the pandemic. So I want to thank you for your efforts. It's been a hard, long process and I'm encouraged to hear that many of the participants and those engaged in the process support what you have before us today. So I think this is in the public interest and you have my full support and I appreciate it. Thank you. And we'll go now to Commissioner Burman.

1/19/2023 - Monthly Meeting

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

And so it -- it gave us or gave me a snapshot into kind of the challenges that were going on and how the collaboration worked to get to where folks were. And -- and also then had certain attachments that were related to things that were looked at in the working group. And -- and I found that very valuable. And, frankly, I feel that it is a good model going forward in other areas for us to explore.

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

Now a couple of things. There was a lot of focus on the fact that there's not state funding as of now. And A.A.R.P. submitted a letter to the Commission on the Phase 2 arrears relief report and continues to -- stating and I'll just put out the parts that are important to this, we continue to assert the approach is the best path forward absent any state funding. So they're okay with this because there's no state funding but they're really looking to the State funding.

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

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

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

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

It will be a slight impact on them. But -- but it will be a very large credit positive for this large arrears issue to mostly be solved through the -- through the program credits as well as allowing customers who have been freed from a lot of their amounts that they owed to have D.P.A.s to -- to pay off the remaining balances and those arrears to be taken care of. All that will be seen as a very credit positive thing. So but as far as A.A.R.P.'s comment, I think there's no doubt that the credit rating agencies have -- have large concerns and could lead to downgrades by itself and or with other -- other aspects.

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

And I do think that for many of the stakeholders in the working group the next -- the next focus will be on state funding in the budget this year and what that looks like. I do think that we do have to also do our due diligence in reminding the legislature and others about the fact that this and what we're doing is a one-time credit, is a one-time regulatory solution. And it doesn't mean that they can say well, we don't have to do it in the budget, we'll just look to tell the P.S.C. to do more going forward.

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

And also the most recent B.O.A. securities global research analysis, and this is really kind of flagged for me the A.A.R.P. letter and sort of addressing the State funding with the -- with the shareholder contributions, is -- this is -- I'm just going to read a snapshot, New York Governor Kathy Hochul announced an energy relief plan that would deliver $200 million of state funded utility bill relief to over 800,000 New York households. The plan would support ratepayers earning under $75,000 a year that are currently ineligible for New York's existing utility discount program.

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

And then it goes on to say accelerating affordability issues in the northeast remains a key area of investor concern, and state funded relief may alleviate some pressure at no expense to the utility which could result in more constructive New York regulatory decisions and political backdrop and it goes on. So I point that out because I think this sort of gets to the heart of why we have to be cautious and why when we're looking for that, you know, this is really something that this being sort of laser focused on which is, you know, how are you paying for things, what is going to be the effect and what are the regulatory challenges then and -- and what that means going forward. So this sort of applies across the board, and I just highlight that so thank you.

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

And I just want to read the shortly the conclusion that they -- that the comptroller's report stated because I think it's really important for us. It says the COVID-19 pandemic has led to an increase in the number of utility customers having trouble paying for utility service and the amount owed. In addition, a review of utility reports filed with the D.P.S. shows us significant numbers of utility customers were in arrears prior to the effects of the pandemic. The P.S.C. has adopted a program to address low-income customer arrears that have accumulated over the course of the pandemic. That's Phase 1. But a significant amount of arrears will remain.

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

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

1/19/2023 - Monthly Meeting

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

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

MR. RIDER: So, Commissioner Burman, I guess I'd start by saying maybe a year plus now we -- the staff looked at the current energy affordability programs and we put forth some recommendations from the Commission that actually improved the workings of the energy affordability programs moving forward. That work has -- has -- has paused because we're dealing with the arrears crisis but will be picked up in the working group.

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

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

1/19/2023 - Monthly Meeting

2 program.

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

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

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

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

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

They should have already started the proceeding. They could have made sure that they were aligning themselves so that they would be ready to go in real time right after we decided what we were doing if they wanted to wait just to make sure. But there's no reason that it had to wait to start the proceeding, start the comment period until after we act.

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

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

1/19/2023 - Monthly Meeting

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

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

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

Overall I'm really pleased. I'm going to be voting in favor of this. I know that this is going to be really a lot of work now for staff and the stakeholders in making sure that we are carefully doing it in a way that is communicating effectively to the affected customers and to making sure that we are -- are being very responsive to any issues that may be there. So thank you so much.

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

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

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

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

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

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

Just reading and just emphasizing a couple of the things that you said in the report is that, you know, economic recovery some were already behind before COVID. So even though that they recovered, they recovered up to a point of still being behind. Just reading on what you said unfortunately the State's economic recovery from COVID remains slow as businesses continue to struggle to get back up and running, and some households are slow to recover from the loss of income due to job losses, furloughs and unemployment.

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

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

I do want to just emphasize Commissioner Burman's comments on LIPA PSE&G. If there's anyone that is hesitant, if there's anyone that doesn't understand the need for this commission to regulate utilities they should look no further than what did not occur with LIPA and PSE&G and how we are now waiting for them to decide to take action. Look no further to why we need this commission to regulate utilities. Look no further. Thank you very much.

CHAIRMAN CHRISTIAN: Thank you Commissioner. Commissioner Howard.

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

MR. BERKLEY: Thank you, Commissioner.

MR. BERKLEY: Thank you, Commissioner. And it's a pleasure to talk about the moratorium laws. So the legislative moratorium lasted approximately 18 months in the State of New York. As we've discussed before, New York was the first and actually only state to legislate a moratorium that completely covered all utility service. At the time that the State went into the legislative moratorium, we were roughly $780 million in arrears. Over the 18 plus months those arrears went by almost $1 billion in addition.

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

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

So I think that communication on that

level that this is it. That, you know -- you know, the -- and -- and all stakeholders have to make sure that customers understand that, you know, this is -- this is a one-time only offer. Unfortunately, I think human nature is what -- oh, yeah, you did it once you'll do it again. But, again, I think that is why the -- the communication and particularly this particular subgroup of customers, by their very nature, are very difficult to communicate with.

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

I'm also concerned this is problematic with any program such as this is the issue of free riders. While, you know, Aric you have described it, it's going to be relatively small, under 5% we believe, of customers who probably could have paid but didn't. It -- it's concerning if it's -- it's any and it's -- even in a program of this magnitude that's a lot of money too. So but, again, I think that needs to be part of our broader communication issue is that you got to at some point you need to -- to pay your bills because, let's face it, the utilities did their job.

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

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

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

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

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

1/19/2023 - Monthly Meeting

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

CHAIRMAN CHRISTIAN: Thank you, Commissioner. Commissioner Valesky.

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

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

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

Another thing I wanted to raise in regard to your -- the -- the challenge that you had before you, all of you can be summarized in at least two ways as I look at the differences between the challenges that you had in Phase 1 versus the challenges that you had here in Phase 2. This was a much more difficult task that you and the working group had before you for at least two reasons. One, the universe of Phase 1 was relatively well -- well-designed already. Those residential customers who had enrolled previously in discount programs. So the -- the four walls were already built. You had to sort of create that in this -- in this Phase 2 program in a way that was most fair, most equitable, and I think you did a tremendous job there.

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

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

CHAIRMAN CHRISTIAN: Thank you, Commissioner. Commissioner Maggiore.

1/19/2023 - Monthly Meeting

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

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

MR. RIDER: I'll take it first. So -- so really I think we can narrow this down to -- to three issues. The first issue is that in the cost of inaction there's no relief provided to customers and therefore the working group believes that the arrears that have amassed during the pandemic will be unaffordable. And not only will customers have to try to pay their bill but they have to also manage their -- their arrears. And they may be terminated and -- and then the expense moves into uncollectibles which are ultimately paid for by all customers.

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

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

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

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

COMMISSIONER MAGGIORE: Thank you. Thank you very much. My next question is going --

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

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

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

And that also that additional shareholder contributions could affect credit quality metrics. So and the staff looked up and did some research in terms of the other shareholder contributions within the States and -- and did confirm that this level is -- is far exceeds what's been done in other jurisdictions. And then I -- I can -- I'll turn it over to Jeff in terms of the credit quality metrics if he wants to add anything there.

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

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

1/19/2023 - Monthly Meeting

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

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

COMMISSIONER MAGGIORE: Okay. Thank you. And here's my final question is actually also related to the -- that set of recommendations you got in our public comments. Part two of that was that we enact a permanent year round moratorium in utility shutoffs for residents with income at or below 250% of the federal poverty level. And my question to you is why don't we do that? What -- why don't we make paying arrears optional for people with very low incomes? What would happen?

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

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

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

COMMISSIONER BURMAN: Yes.

1/19/2023 - Monthly Meeting

CHAIRMAN CHRISTIAN: Commissioner Alesi?

COMMISSIONER ALESI: Yes.

CHAIRMAN CHRISTIAN: Commissioner Edwards?

COMMISSIONER EDWARDS: Yes.

CHAIRMAN CHRISTIAN: Commissioner Howard?

COMMISSIONER HOWARD: Yes.

CHAIRMAN CHRISTIAN: Commissioner Valesky?

COMMISSIONER VALESKY: Yes.

CHAIRMAN CHRISTIAN: And Commissioner Maggiore?

COMMISSIONER MAGGIORE: Yes.

CHAIRMAN CHRISTIAN: Thank you. The item is approved. Recommendations are adopted. We'll now move on to the consent agenda. Do any commissioners wish to comment on or recuse from voting on any of the items in the consent agenda. I'll begin with Commissioner Burman.

COMMISSIONER BURMAN: Thank you. I have four items that I'll be commenting on. Item 162 which is the filing for Demand Side Management

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

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

1/19/2023 - Monthly Meeting

of this draft order.

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

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

And I highlight here some of the

things that really kind of struck me is we -- we talk about the municipalities and in the draft order it says that the Commission does not wish to impede municipalities' ability to inform and education their constituents and encourages municipalities to create their own materials to share with their constituents. These materials are not part of the opt out program requirements and the municipality is free to customize them however they would like.

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

We're seeing that that is not the case. One size does not fit all and it also is unfair if we are enticing them as a state to run to a C.C.A. program because you can become part of this wonderful, you know, climate community and get some funding and have help for your residents. And on the other end, we don't give them the devil in the details, and we don't give them the, this is actually things that you're going to have to do. And these are the things that you might want to do.

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

I am also struck by the fact that we are recognizing that for many of the bids that come in for the C.C.A.s that there are none or one, only one ESCO that it's applying and that we're concerned about that. That we want more ESCOs. We have to take a look at perhaps some of the things we as a state have done to get us to this situation because I do believe that part of this slow trickle has been if you look back at some of the challenges with the reset order that we did on the ESCOs and trying to push this model into the C.C.A.s. And frankly I think that for some people they only wanted one or two ESCOs to actually wind up being able to compete in the C.C.A. space.

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

So we -- we kind of throughout the draft order I felt like there needed to be a further discussion and a further understanding and a more comprehensive way of looking at this. And it just, for me, overall really concerns me and we also talk about in here, in this draft order about, you know, concern with a, you know, process and setting up a dispute resolution process and aligning it with the way similarly to the way it's done with the U.B.B. Section 8. I don't think we can just cookie cutter out and say this dispute resolution process is -- is here, we're going to use it over here, without fully understanding what that means. Without fully understanding how actually it would work in real time.

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

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

1/19/2023 - Monthly Meeting

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

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

I've spoken quite a bit about what I see as procedural infirmities and think that that continues to exist. It really is concerning to me that we have wasted a lot of time in what clearly seemed like was a outcome that was going to be, which is the petitions would be denied. Now I don't have a problem if we say petitions are not giving, you know, has not produced what they should for us to move forward. But we miss from this draft order the fact that we actually have been punting for a long time on this decision which ultimately we all knew was going to be we're going to be denying your petitions and saying no to green gas.

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

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

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

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

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

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

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

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

And perhaps it's also for us as a

commission meaning needing to be able to be a little bit more forceful in understanding and advocating in a way that is helpful to the folks that we regulate. And is helpful to the customers and understanding that. And also not having staff have to continually spin their wheels and change the latest and greatest to something else. And so for me I concur because I think staff is working incredibly hard at trying to do that and also trying to protect the regulatory process that is so important. But, frankly, I think the rails are falling off if we do not get a handle on this.

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

And as we head into more and more

issues, we really need to have more communication in a way that is showcasing that we are, you know, trying to do the right thing but we can't if we're continually getting mandated that is actually not actually going to be helpful. And so for that I'm going to be concurring with grave reservation. Thank you.

CHAIRMAN CHRISTIAN: Thank you, Commissioner. Commissioner Alesi?

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

CHAIRMAN CHRISTIAN: Thank you, Commissioner. Commissioner Edwards?

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

CHAIRMAN CHRISTIAN: Thank you. Commissioner Howard?

COMMISSIONER HOWARD: Yeah, I have two items I'd like to speak to. First Item 261, first of all, I believe that the opt out provisions of this and previous orders is flawed. And I believe are fundamentally undemocratic. You know, the belief that local governments are fully capable of making utility supply purchases for all of their constituents is questionable.

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

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

This lack of full communication only increases with the size of the municipality involved. A community of 10,000 is easier to talk to than one of 100,000. I also point out that individual -- that the -- under the orders of this commission that if an individual customer wants to get energy from an energy service company or ESCO it -- that customer must affirm that leaving bundled utility service is their wish. That is not the case with this particular order.

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

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

1/19/2023 - Monthly Meeting

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

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

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

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

CHAIRMAN CHRISTIAN: Thank you, Commissioner. Commissioner Valesky?

COMMISSIONER VALESKY: Mr. Chairman, just want to highlight two quick items. Item -- and they are both involving electric transmission projects. Item 365. This is the approval of the Environmental Management and Construction Plant Part 2A that National Grid filed for their Smart Path Connect Project. This is in the Adirondacks. And Item Number 370 also a National Grid petition. This is a project -- electric transmission project in Oswego County and Onondaga County if approved will replace 18 wooden structures with galvanized steel, H frame -- H frame structures.

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

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

CHAIRMAN CHRISTIAN: Thank you, Commissioner. Commissioner Maggiore?

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

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

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

CHAIRMAN CHRISTIAN: Thank you. Commissioner Alesi?

COMMISSIONER ALESI: I vote yes on all items.

CHAIRMAN CHRISTIAN: Thank you. Commissioner Edwards?

COMMISSIONER EDWARDS: Yes, all items.

CHAIRMAN CHRISTIAN: Thank you. Commissioner Howard?

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

CHAIRMAN CHRISTIAN: Thank you. Commissioner Valesky?

COMMISSIONER VALESKY: Yes on all items.

1/19/2023 - Monthly Meeting

CHAIRMAN CHRISTIAN: Commissioner Maggiore?

COMMISSIONER MAGGIORE: Yes on all items.

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

SECRETARY PHILLIPS: There's nothing further today.

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

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

1/19/2023 - Monthly Meeting

STATE OF NEW YORK

I, MONIQUE HINES, do hereby certify that the foregoing was reported by me, in the cause, at the time and place, as stated in the caption hereto, at Page 1 hereof; that the foregoing typewritten transcription consisting of pages 1 through 74, is a true record of all proceedings had at the hearing.

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

MONIQUE HINES, Reporter

N

T