

11-17-2022 - Monthly Meeting

STATE OF NEW YORK

PUBLIC SERVICE COMMISSION

MONTHLY MEETING

Thursday, November 17, 2022

10:30 a.m. until 11:21 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

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

3 CHAIRMAN CHRISTIAN: I call this
4 Session of the Public Service Commission to Order.
5 Secretary Phillips, are there any changes to the
6 final agenda?

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

9 CHAIRMAN CHRISTIAN: Thank you. I'll
10 first conduct roll call of commissioners. When I
11 call your name please confirm that you are with us
12 this morning. Commissioner Diane Burman?

13 COMMISSIONER BURMAN: Here.

14 CHAIRMAN CHRISTIAN: Commissioner
15 James Alesi?

16 COMMISSIONER ALESI: Here.

17 CHAIRMAN CHRISTIAN: Commissioner
18 Tracey Edwards?

19 COMMISSIONER EDWARDS: Here.

20 CHAIRMAN CHRISTIAN: Commissioner John
21 Howard?

22 COMMISSIONER HOWARD: Here.

23 CHAIRMAN CHRISTIAN: Commissioner Dave
24 Valesky?

25 COMMISSIONER VALESKY: Here.

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2 CHAIRMAN CHRISTIAN: Commissioner John
3 Maggiore?

4 COMMISSIONER MAGGIORE: Here.

5 CHAIRMAN CHRISTIAN: Thank you all.

6 We now move to the regular agenda. First item for
7 discussion is Item 301 Case 20-T-0617 related to the
8 application of Sunrise Wind, L.L.C. for a certificate
9 of environmental compatibility and public need. It
10 will be presented today by Administrative Law Judges
11 Michael Clarke and Erika Bergen.

12 Judge Clarke, please begin.

13 A.L.J. CLARKE: Morning, Chair
14 Christian, Commissioners. My name is Michael Clarke.
15 I was assigned to preside over this proceeding with
16 Administrative Law Judge Erika Bergen. The order
17 before you would approve a joint proposal filed in
18 this case by Sunrise Wind, L.L.C. We grant Sunrise's
19 application pursuant to Article 7 of the Public
20 Service Law for parties to construct, operate and
21 maintain Sunrise Wind New York Cable project.
22 Transmission line intended to deliver up to 924
23 megawatts of electricity to the New York State grid
24 from the Sunrise Wind Farm, an offshore wind
25 generation facility located in federal waters

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2 approximately 30 miles off the coast of Long Island.

3 The unopposed joint proposal is signed
4 by Sunrise, the staff of the New York State Public
5 Service, the New York State Department of
6 Environmental Conservation, New York State Department
7 of Agriculture and Markets, New York State Department
8 of State, the New York State Department of
9 Transportation and the Long Island Commercial Fishing
10 Association.

11 According to the signatory parties the
12 joint proposal is consistent with sound
13 environmental, social and economic policies of the
14 commission and the state such that its approval is in
15 the public interest. In that regard laws applicable
16 to this proceeding Public Service Law Section 126 and
17 the Climate Leadership and Community Protection Act
18 or C.L.C.P.A. The former authorizes the commission
19 to grant the certificate for the construction and
20 operation for a major electric transmission facility
21 if it determines the basis of need for the facility
22 and the nature of the facility's probable
23 environmental impact.

24 The latter requires that New York
25 achieve a 100% carbon free electricity system by 2040

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2 and reduce greenhouse gas emissions 85% below 1990
3 levels by 2050. The C.L.C.P.A. also mandates that at
4 least 70% of the state's electricity come from
5 renewable energy sources by 2030 and calls for the
6 development of 9,000 megawatts of offshore wind
7 energy by 2035. The project will further New York's
8 efforts to achieve these goals as it will deliver up
9 to 924 megawatts of clean, reliable wind energy from
10 the Sunrise Wind Farm for the Long Island Power
11 Authorities Holbrook Substation in the Town of
12 Brookhaven Suffolk County.

13 The project components include the
14 Sunrise Wind export cable, an onshore transmission
15 cable, an onshore converter station, an onshore
16 interconnection cable and the expansion of the
17 Holbrook Substation. The 5.2 mile export cable will
18 be a high voltage 320 kilovolt direct current
19 submarine cable bundle and will enter the New York
20 State waters three nautical miles from land and be
21 routed to a point of the South coast of Fire Island,
22 approximately 2,225 feet offshore. There the cable
23 will be landed via horizontal directional drilling or
24 H.D.D. and ultimately connect to the transition joint
25 bay in the landfall work area at Smith Point County

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2 Park on Fire Island where it will be spliced in
3 onshore transmission cable.

4 That cable will extend for
5 approximately 17 miles across from the intercoastal
6 waterway traveling through Long Island primarily
7 within an exist -- existing disturbed right-of-way to
8 the new onshore converter station which will
9 transform the project's voltage from 320 kilovolts
10 direct current to 138 kilovolts alternated current.

11 From the converter station,
12 electricity will be transmitted via the onshore
13 interconnection cable to the Holbrook Substation up
14 to 1.1 miles long and consisting of 2 alternating
15 current circuits. The interconnection cable will be
16 routed entirely underground along town roads and
17 utility owned or controlled property. The Holbrook
18 Substation is situated on utility-owned land north of
19 the Long Island Expressway in the Town of Brookhaven.

20 In order to accept power generated by
21 the project, the substation will require a fence line
22 extension, additional electrical equipment and bus
23 work as well as the relocation, retermination,
24 reconfiguration and/or under grounding of several
25 existing 138 and 69 kilovolt overhead transmission

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2 circuits.

3 Turning back to the joint proposal,
4 signatory parties maintain that its terms fairly and
5 reasonably consider their potentially competing
6 interests are appropriately balanced to assure
7 protection of those interests and produce an outcome
8 that is within the range of results likely to arise
9 in the commission decision in a litigated proceeding.

10 In this regard LICFA raised several
11 concerns at the outset of the case noting that its
12 constituency of 300 commercial fishers was
13 potentially impacted more than any other group by the
14 submarine cable pathway and landing site. After 10
15 months of settlement discussions Sunrise committed to
16 various design changes that will significantly reduce
17 impacts arising from the project including those
18 affecting benthic resources and water quality as well
19 as those potentially affecting the commercial fishing
20 industry.

21 In particular, the export cable will
22 be installed at the landfall H.D.D. just a single
23 bore rather than three as was proposed in the
24 application. Joint proposal also requires
25 substantial outreach and notice for the fishing

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2 community's during project construction as well as
3 the submission of both fisheries compensation plan
4 and the fisheries monitoring plan. Compensation plan
5 will identify a claims process for the loss of
6 commercial fishing gear and the monitoring plan will
7 ensure impacts to fisheries and fishing operations
8 are appropriately minimized. These provisions have
9 alleviated LICFA's concerns, and there is, in fact,
10 no public opposition to the project. On the
11 contrary, favorable comments in the record are
12 provided by both Suffolk County and the Town of
13 Brookhaven, the only municipalities in which the
14 project is situated.

15 Comments from Suffolk County include
16 the Sunrise Wind projects will lead to the creation
17 of much-needed infrastructure investments and many
18 jobs that come with good living wages and benefits.
19 Also the opportunity for offshore winds can
20 significantly help us combat climate change, provide
21 quality union jobs, ensure that our energy solutions
22 are clean and safe for the environment. Suffolk
23 County supports this project.

24 Brookhaven's commissioner of planning
25 environment and land management, meanwhile, indicates

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2 that the town looks forward to continuing to work
3 collaboratively with Sunrise as the project is
4 permanent, constructed and operated. And appreciates
5 the opportunity to comment on this historic and
6 regionally significant project.

7 We agree with these sentiments as well
8 as the signatory party's assertion that the joint
9 proposal addresses all the statutory and regulatory
10 criteria surrounding Sunrise their request for a
11 certificate.

12 The project will assist New York's
13 efforts to achieve the energy and environmental goals
14 set forth in the C.L.C.P.A. It will increase the
15 amount and availability of renewable energy to the
16 provision of up to 921 megawatts clean, reliable,
17 offshore wind energy while also creating an
18 opportunity for displaced energy generated by fossil
19 fuel power plants.

20 In conclusion, the project satisfies
21 the public need, and will adversely impact the
22 environment to the minimum extent practical, giving
23 the state of available technology, the nature and
24 economics of various alternatives and all other
25 pertinent considerations. We accordingly recommend

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2 that the joint proposal be adopted in full. Thank
3 you. Both Judge Bergen and I are available for any
4 questions you may have.

5 CHAIRMAN CHRISTIAN: Thank you.
6 Appreciate the presentation today and I'm happy to be
7 able to look over this item and review it today
8 because its noble for a couple of reasons. Some of
9 which you pointed out. That items were unopposed, I
10 think in my mind, and, that it has received such
11 support from the town and the county in which it's
12 located. I think those are some significant items
13 that we are repeating and amplifying that it shows
14 communities are eager for these kinds of projects.

15 That working with the developer and
16 communities and local industries we come up with a
17 solution that is fair for all involved. So I was
18 very happy to see that in the order that within the
19 last 10 months to the point where we can deploy this
20 project in a fair and equitable way. So thank you
21 for your presentation. I'll move on to Commissioner
22 Diane Burman. Do you have any comments?

23 COMMISSIONER BURMAN: I have no
24 comments.

25 CHAIRMAN CHRISTIAN: Sorry. Maybe I

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2 didn't hear you. You have no comments?

3 COMMISSIONER BURMAN: I have no
4 comments at this time. Thank you.

5 CHAIRMAN CHRISTIAN: Thank you
6 Commissioner. Commissioner Alesi?

7 COMMISSIONER ALESI: Thank you,
8 Chairman. I'll be supporting this for a significant
9 number of reason not the least of which it is
10 unopposed.

11 COMMISSIONER BURMAN: I'm sorry, I
12 can't hear. Could you speak up?

13 COMMISSIONER ALESI: Okay, I'll start
14 over. I am going to support this, because it is
15 unopposed by most of the significant players,
16 departments and agencies, of the state as well as
17 local government. And I would note that after some
18 negotiations with the Long Island Commercial
19 Association they're onboard as well. I think it will
20 provide solid environmental and economic benefits
21 including job creations and moreover it's in sync
22 with the C.L.C.P.A. To me this is another exciting
23 giant step in our pursuit of reliable and clean
24 energy. So I will be voting yes on it.

25 CHAIRMAN CHRISTIAN: Thank you.

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2 Commissioner Edwards?

3 COMMISSIONER EDWARDS: Yes, thank you
4 very much, Chair. I just want to commend both of you
5 for this hard work. It is -- it's difficult to have
6 anything that's unopposed actually in this -- in this
7 day and age. But this was -- this was a tough one
8 and because I know that the commercial fishermen had,
9 you know, rightfully so, a lot of questions and
10 concerns on how they were going to be impacted.

11 So the fact that all of you worked
12 together on the joint proposal to alleviate their
13 concerns is commended. It really is. This is an
14 important project and setting the tone for things to
15 come. I, you know, I want -- I'm excited for the
16 opportunities that this is going to be able to move
17 forward, the job opportunities, the environmental
18 opportunities. It speaks volumes for what's needed,
19 and as a resident of Long Island and a resident of
20 Suffolk County I am excited to be able to vote and to
21 move this forward. So thank you and everyone else
22 involved in this joint proposal. Thank you.

23 CHAIRMAN CHRISTIAN: Thank you.

24 Commissioner Howard.

25 COMMISSIONER HOWARD: Thank you. I --

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2 I do want to echo my fellow commissioners praise of
3 the staff and the -- and the judges work on this
4 project. It -- you really threaded the needle in a
5 very difficult -- well, difficult, first of its kind
6 and will be set precedence for future transmission
7 projects in the offshore space going forward.

8 That being said I have a few questions
9 not necessarily about this particular project. It --
10 it's regarding the finances of the entire -- this
11 entire offshore O Rec ... For -- if you could
12 indulge me, could someone remind me how this -- the
13 intention to pay for this transmission project, which
14 will be bundled with the actual wind farm, and then
15 ultimately paid by -- by rate payers, could -- could
16 someone, a judge or give me how the -- the economics
17 work of this? And particularly describe the load
18 share ratio financing aspects of this project.

19 CHAIRMAN CHRISTIAN: Counselor
20 Rosenthal?

21 MR. ROSENTHAL: Sure. And -- and if
22 you don't mind I'd ask the A.L.J.s that were
23 responsible for the case. Was that issue addressed,
24 did it come up in the case?

25 A.L.J. CLARKE: No, it was not an

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2 issue in this case.

3 MR. ROSENTHAL: Okay. So that --

4 those issues were not an issue in the case,

5 Commissioner Howard.

6 COMMISSIONER HOWARD: Well, I'm -- I'm

7 fully aware of that.

8 MR. ROSENTHAL: So just -- just to

9 further the point, it's really imperative that any

10 final agency actions that come from the commission

11 are based on the record of the proceeding.

12 COMMISSIONER HOWARD: Well, that being

13 said, I -- I do know what the answer is. And here's

14 a very difficult --.

15 COMMISSIONER BURMAN: I'm sorry, is he

16 not answering the question? I -- I asked -- I would

17 like this question answered.

18 CHAIRMAN CHRISTIAN: So I believe

19 general counsel answered the question by reiterating

20 that the decisions we are making today may be based

21 on the items that appear in the record. That the

22 question Commissioner Howard asked is not something

23 that appeared in the record. You could definitely

24 provide additional details and information, on that,

25 and I believe we discussed this in prior cases. Is

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2 that a discussion that we should have again,
3 Commissioner Howard?

4 COMMISSIONER HOWARD: It -- it's not
5 necessary. It's not necessary. And -- and I would
6 like to indulge my -- request the indulgence of my
7 fellow commissioners and staff because the issue of
8 the financing of our Rec program, we -- we don't get
9 much opportunity to bring the issues to the public in
10 a forum very often. And I'm going to take advantage
11 of this opportunity to reiterate some of my ongoing
12 concerns.

13 And particularly what is in the record
14 particularly as the judge stated, particularly the
15 Town of Brookhaven's comment about these regional
16 aspects of the benefits of this project. That being
17 said, the benefits would appear to be if not
18 exclusively almost largely to the Long Island
19 community both for its immediate environmental
20 benefits and certainly its near term economic impacts
21 as the judge stated.

22 What -- my broader concern is -- is
23 that the -- that the way that we finance this portion
24 of the project, because it's a bundled project, and
25 again, let me reiterate, I am for the project. I --

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2 and really would once again reiterate my praise for
3 staff and the trial staff who -- who got this done so
4 -- so delicately. But I just want to go on the
5 record that while this benefit would appear to be
6 regional in nature that the Long Island Power
7 Authority customers will pay roughly 13.5% of the
8 cost of this project while upstate customers will pay
9 nearly 50% of the cost of this project.

10 While I know that is not directly
11 relevant to the case before us, I think it's hugely
12 important and, again, I ask everyone's indulgence,
13 I'm going to do this every time a project comes up
14 that is based on a load share ratio financing scheme.
15 And -- and because at some point I believe the
16 broader body politic in the State of New York will
17 understand that everybody pays, and that sometimes
18 the biggest beneficiaries pay the least. And in this
19 case I believe that is the case.

20 So that -- in that regard, that is --
21 that's my point here. And -- and I will be voting no
22 not because I don't like the project it's because I
23 don't -- this is the only opportunity that I have
24 seen through the last several years on this
25 commission that -- where this issue can be dealt

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2 with. It has not been dealt with properly and I
3 think this issue of project financing, unfortunately,
4 should not be in the hands exclusively of this body
5 but should have direct direction from the state
6 legislature because if we're going to ask everyone in
7 the State of New York to pay that -- that decision
8 should be done not through a regulatory fiat but
9 through -- directly through a legislation.

10 But, again, I do want to praise
11 everyone who's involved in this. I look forward to
12 the construction of this project, and I also look
13 forward and I would hope sometime in 2023 we would
14 take a more rational approach to project financing.
15 But with that thank you.

16 CHAIRMAN CHRISTIAN: Thank you. Move
17 on to Commissioner Valesky. Do you have any
18 comments?

19 COMMISSIONER VALESKY: Thank you.
20 Thank you, Mr. Chair and Judge Clarke, thank you for
21 your presentation this morning and for your summary
22 of the Article 7 proceeding that is before us today.
23 I -- I would just very briefly, again, highlight as
24 some previous speakers have, but the support of the
25 joint proposal from both local governments involved

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2 both Suffolk County and the Town of Brookhaven, and
3 particularly the commercial fishing industry.

4 And -- and, Judge, you made clear in
5 your presentation that the developer of this
6 transmission project, Sunrise, did, in fact, make
7 some design changes to its initial -- to its initial
8 proposal specifically to take into consideration
9 those -- those concerns of -- of the commercial
10 fishing industry. So appreciate the willingness to
11 do that. Again, thank you and -- and the entire
12 staff for the good work that has been done on this
13 item and I intend to support it. Thank you, Mr.
14 Chair.

15 CHAIRMAN CHRISTIAN: Thank you
16 Commissioner. Commissioner Maggiore.

17 COMMISSIONER MAGGIORE: Thank you,
18 Chair. I'm happy to vote for this item. It advances
19 our clean energy goals and reflects an inclusive and
20 collaborative process which is a testament to good
21 staff work. I don't want to say that it's amazing
22 that there is no local opposition because to say it's
23 amazing suggests that it's unbelievable. This is
24 believable. Instead I just want to say it's a
25 noteworthy and very laudatory feature of this item.

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2 And so I just wanted to say good work and, again, I
3 am going to vote yes. Thank you.

4 CHAIRMAN CHRISTIAN: Thank you
5 Commissioner. So I'm going to bring this item to
6 call for a vote. My vote is in favor of the
7 recommendation of the ... terms of the proposal as
8 discussed. Commissioner Burman, how do you vote?

9 COMMISSIONER BURMAN: Yes.

10 CHAIRMAN CHRISTIAN: Commissioner
11 Alesi?

12 COMMISSIONER ALESI: Yes.

13 CHAIRMAN CHRISTIAN: Commissioner
14 Edwards?

15 COMMISSIONER EDWARDS: I
16 enthusiastically vote yes.

17 CHAIRMAN CHRISTIAN: Commissioner
18 Howard?

19 COMMISSIONER HOWARD: No.

20 CHAIRMAN CHRISTIAN: Commissioner
21 Valesky?

22 COMMISSIONER VALESKY: Yes.

23 CHAIRMAN CHRISTIAN: Commissioner
24 Maggiore?

25 COMMISSIONER MAGGIORE: Yes.

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2 CHAIRMAN CHRISTIAN: Thank you. The
3 item is approved and the recommendations adopted.
4 We'll now go to the consent agenda. Do any
5 commissioners wish to comment on or recuse from any
6 of the items on the consent agenda? I'll begin the
7 questioning with Commissioner Burman.

8 COMMISSIONER BURMAN: Yes, thank you.
9 I am going to be talking about Item 164 and Item 372.
10 Item 164 is the Bluebird RNG C.P.C.N. item and Item
11 372 is the Petition of Noblehurst Farms concerning
12 costs of interconnecting a net metered farm waste
13 generator.

14 The challenging goal of New York State
15 energy policy is to balance reliability,
16 environmental sustainability and the cost of energy
17 supply to meet the needs and demands of consumers and
18 to support the growth of our state's economy. The
19 New York State Climate Leadership and Community
20 Protection Act sets aggressive goals for emissions
21 reductions, renewable energy production and energy
22 use reductions.

23 Both of these projects, in my mind,
24 present economic development opportunities in the
25 agriculture industry as part of our clean energy

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2 transition providing a dual benefit to two critical
3 sectors of the economy. Energy and waste. I believe
4 there's a strong need for fuel diversity as we focus
5 on decarbonization. We need multiple resources to
6 play a role in our state's overall energy future as
7 we seek to lower emissions.

8 I emphasize that without these
9 facilities much of the waste would become methane
10 through natural processes. Instead it's being
11 captured for our benefit in a renewable less carbon
12 intensive matter. It's clear to me that farms, dairy
13 farms have a role to play in decarbonization, and I'm
14 mindful that dairy farms are helping us explore what
15 that role is and help to shape our clean energy
16 future.

17 There's a disconnect for me here
18 though between 164 and 372. I recognize that it's
19 not an apples-to-apples comparison. However, we are
20 devoid of consistency in my opinion. In the Bluebird
21 matter, which we are approving or the draft is
22 approving, I believe that we are getting it right.
23 We are clearly identifying that this complies with
24 the C.L.C.P.A. and further the projects like this are
25 not inconsistent with the C.L.C.P.A.

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2 Staff took an extreme amount of
3 careful analysis reviewing all of the facts to come
4 to that conclusion in a way that was technically,
5 regulatorily and legally correct. It effectively
6 removes barriers such as these projects as we
7 continue to face opposition from them that they are
8 not inconsistent with the C.L.C.P.A. Let me be
9 clear, 164 draft order makes it very clear that
10 Bluebird RNG is not inconsistent with the C.L.C.P.A.
11 That, I think, is good for Bluebird, it's good for
12 New York as a whole. And it is consistent as we go
13 forward with the C.L.C.P.A.

14 I believe strongly that we should make
15 sure that we -- folks understand that we are
16 effectively removing those barriers to projects under
17 the misguided assumption that it is not consistent
18 with the C.L.C.P.A. However, I'm going to be voting
19 no on Item 372 because I believe strongly looking at
20 it from a holistic point of view that we are getting
21 it wrong. Here the draft order seeks to deny
22 Noblehurst's farm petition.

23 I understand if we were looking at it
24 in isolation that might seem to make legal sense.
25 However, after careful review, I cannot come to that

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2 conclusion. I think it is incumbent upon us to make
3 sure that our state energy policy is enabling folks
4 to work together and collaborate to find solutions to
5 that.

6 Why am I so passionate about this?
7 When you look at Noblehurst Farm what you see is a
8 family farm that has been very focused on being a
9 part of the solution in New York for clean energy for
10 quite some time. In fact, the United States E.P.A.
11 has highlighted them as a success model. Noblehurst
12 Farm was established in 1960 in Linwood, New York.
13 It's the 7th generation multifamily farm with an eye
14 for sustainability and environmental stewardship.

15 The U.S. E.P.A. believes that. The
16 family run business includes Noblehurst Farm, 1,800
17 cow dairy, more than 2,500 acres of land where corn,
18 alfalfa and wheat are grown. It has a Craigs Station
19 Creamery, a milk processing facility. There's
20 Noblehurst Green Energy which produces electricity,
21 natural up -- up cycling, a food scrap collection
22 business. E.P.A. recognized them because they were
23 producing clean energy, renewable energy by the farms
24 anaerobic digester which uses manure from the farm's
25 dairy cows as well as food waste collected from local

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2 grocery stores, restaurants, consumer food companies,
3 universities and schools.

4 The family's enduring commitment,
5 based on what the E.P.A. is saying, to preserving the
6 land and consistent focus on long range planning and
7 profitability have led them to establish innovative
8 partnerships that the E.P.A. embraced. They utilize
9 food waste in generating power. Upscaling process
10 helps include waste from seafood, beef, pork and
11 poultry products, fruits and vegetables, dairy and
12 egg products, red wheat, rice, pasta and coffee
13 products. Leaves, bushes, grasses and weeds and
14 floral and tree trimmings. These wastes which are
15 produced by grocery stores, consumer food
16 manufacturers, university schools and restaurants are
17 collected by Noblehurst natural upcycling and
18 delivered -- delivered to the Noblehurst digester.

19 In fact, the New York State Fair
20 benefited from their participation. The New York
21 State's Fair butter sculpture was recycled into
22 electric energy capable of powering a house for three
23 days. The 800 pound installation was taken this year
24 to Noblehurst Farms and processed alongside other
25 food waste in the farm's digester. They've been

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2 touted by the New York State D.E.C., by NYSERDA, by
3 the Farm Bureau, by Cornell. The list goes on of
4 folks who have been supportive and have seen
5 Noblehurst Farm as an important part of our state's
6 energy policy, an important part of our economic
7 thriving.

8 They helped to alleviate food waste
9 and produce energy for the dairy. They turned manure
10 and food waste into new energy sources. I believe
11 strongly that we need to support these projects from
12 an energy incentive -- looking at energy incentives
13 and help support the continued operations on a
14 statewide basis. I agree that we cannot just have it
15 rest on the backs of New York State rate payers.
16 However, I believe strongly that we cannot continue
17 to look at these in one-offs and in isolation.

18 It is clear to us from the amount of
19 work that Noblehurst Farms has done as well as other
20 dairy farms that they have been stewards in all of
21 this throughout the years. In fact, Chris Noble
22 presented, Chris Noble along with his family and
23 neighbors who operate Noblehurst Farm presented at a
24 joint budget hearing and really made the case about
25 their passion for sustainability, the steps that they

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2 have taken over the years to invest environmentally
3 conscious practices with the goal of improving a long
4 term sustainability.

5 As I see it, they have diverse
6 customers like Wegmans Food Markets, Skidmore College
7 and others helping in these efforts. I believe
8 strongly that we should take the time before we move
9 on this petition denying it to actually look at what
10 is happening and find solutions. It should not just
11 be left to the utility and the farm to have to fight
12 among themselves over the issue. Instead we should
13 be looking at this more holistically across the board
14 on a statewide energy policy.

15 Over the years I have sat here since
16 2013 and listened to how much we care about the
17 agricultural community in New York. However, I don't
18 see it. We form working groups, we form statewide
19 tasks force, but ultimately I think that we are
20 failing if we don't lean into this. We should learn
21 the lessons from the anaerobic digesters which we
22 started, we worked with farms to help thrive. We
23 should be seeing what else can we do as we move now
24 into renewable natural gas and as we move now into
25 other ways to reduce emissions.

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2 All one has to do is go to Noblehurst
3 Farm and other farms who are trying to do the right
4 thing and see the benefit that is there. Many state
5 officials, myself included, have gone and have felt
6 the passion that's there and have seen the real good
7 hard work that can be done. So for me I think it is
8 incumbent upon us as we move to looking at how to
9 monetize this issue in a way that is helpful and
10 consistent with our climate act change action and
11 reducing emissions. I -- I understand that the
12 economics may not be there for generating electricity
13 on dairy farms.

14 Therefore we need to look at renewable
15 fuel goals and help to figure out a way to support,
16 not to be a barrier, to representing cutting edge
17 industry, low carbon biofuels and looking at ways
18 that, in fact, our farms can thrive and by -- and
19 then that means that New York will thrive. Therefore
20 I am going to be voting no on the Noblehurst Farm
21 item as written the draft order seeks to deny the
22 petition. I don't think that's appropriate. Thank
23 you.

24 CHAIRMAN CHRISTIAN: Thank you,
25 Commissioner. Commissioner Alesi?

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2 COMMISSIONER ALESI: Yeah, I'll be
3 supporting the entire consent agenda without comment.

4 CHAIRMAN CHRISTIAN: Thank you.
5 Commissioner Edwards?

6 COMMISSIONER VALESKY: Hold for a
7 second Chairman Christian, Commissioner Alesi was not
8 able to be heard by the stenographer here. So if he
9 could repeat his comments.

10 CHAIRMAN CHRISTIAN: Thank you for
11 that. Commissioner Alesi, would you mind stating
12 your position of the consent agenda please?

13 SECRETARY PHILLIPS: I think you have
14 to move the mic very close to you.

15 COMMISSIONER ALESI: I will keep it
16 very close this time. Okay. As I said I'll be
17 supporting the entire consent agenda without comment.
18 Thank you.

19 COMMISSIONER EDWARDS: Okay. Thank
20 you. I -- I just have a comment. I did look at the
21 372 for Noblehurst Farms as well because I wanted to
22 make sure that looking at this, you know, thoroughly.
23 And at the end of the day, although I hear
24 Commissioner Burman and respect her comments, it's a
25 tariff provision. And if we give a waiver to this

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2 farm, even though they're a great farm, then what are
3 we going to do for everybody else.

4 You know, so that's -- I will -- I
5 think all of the wonderful things that Commissioner
6 Burman said about Noblehurst Farm is true, it's
7 accurate, they're wonderful. But it's a tariff
8 provision and if we give them a waiver they, you
9 know, they have to pay their interconnection costs.
10 That's -- that's where I am. So I would love to do
11 something for the Noblehurst Farm but it's a tariff
12 -- it's a tariff provision.

13 So it's -- you know, I thank them for
14 all of their hard work. I think that they are great
15 but we can't make an exception for them as worthy as
16 I think that they are. So that's my only comment.
17 Thank you.

18 CHAIRMAN CHRISTIAN: Thank you,
19 Commissioner Edwards. Commissioner Howard?

20 COMMISSIONER HOWARD: Thank you, Mr.
21 Chairman. I will be voting no on 372 largely in
22 concurrence with Commissioner Burman's comments.
23 Additionally I'll be voting no on 374 which is part
24 of my consistent no votes on those projects that are
25 supported through load share ratio financing.

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2 CHAIRMAN CHRISTIAN: Thank you,
3 Commissioner. Commissioner Valesky.

4 COMMISSIONER VALESKY: Thank you, Mr.
5 Chairman. I -- I also was prepared to speak on both
6 items 164 and 372. After hearing Commissioner
7 Burman's comments earlier today I'm going to just
8 state that my wish is for the record to reflect my
9 100% concurrence and agreement with her presentation
10 on both of those items. And as such I'll be
11 enthusiastically supporting Item 164, the Bluebird
12 petition and I'll be voting no on Item 372. Thank
13 you.

14 CHAIRMAN CHRISTIAN: Thank you,
15 Commissioner. Commissioner Maggiore.

16 COMMISSIONER MAGGIORE: Thank you.
17 I'm going to explain my vote on three items. The
18 first one is Item 464 Heritage Estates. And I just
19 want to note that although this is a very small rate
20 case, we are approving a roughly 42% bill increase on
21 this utility's 30 customers. The customers received
22 notice and nobody submitted any public comments.
23 There is nothing on the record challenging any of the
24 staff analysis or any of the reasons for the rate
25 hike, so I have no reason to vote no. And I will, in

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2 fact, vote yes. But whenever I see one of these
3 types of cases I'm given pause as to whether to
4 interpret the lack of comment as consent. In any
5 case there's nothing in the record to suggest that
6 there's anything -- there's not any alternate view so
7 I'm going to vote yes.

8 The next item I'm going to comment on
9 is 387 Baron Winds and I'd like to state for the
10 record that I read all the public comments regarding
11 this case that were filed during the 21 day comment
12 period, and believe that the order as written is
13 responsive to those comments that pertain to the
14 compliance filings that are the subject matter of
15 this order.

16 I recognize that there were additional
17 comments that the order does not directly address
18 other than to acknowledge that some comments do not
19 pertain to the matter before us today. I have
20 noticed since joining the commission, reading these
21 comments and listening in on some public statement
22 hearings for similar cases that there is sometimes
23 confusion about what is actually a question.

24 I sympathize and understand the desire
25 to take the opportunity to speak on topics beyond the

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2 scope of the narrow issue at hand. But the question
3 before us is actually narrow and I think the relevant
4 questions raised have been adequately answered so I'm
5 going to vote yes on this.

6 Finally, I'm going to comment on 164
7 Bluebird Renewable. I was originally going to make
8 more extensive comments on this case but I think I
9 can be brief. I read the public comments on this
10 case with great interest particularly the back and
11 forth between the Sierra Club and the petitioner.
12 Many issues were raised during this exchange and I
13 believe this order addresses those issues.

14 At the most abstract level, the
15 central question of this debate was whether or not
16 this project increases or decreases the total amount
17 of greenhouse gas produced in New York State. The
18 points raised by the Sierra Club are far from
19 frivolous, and would go further to say that they are
20 largely quite thoughtful. The order explains that
21 the state -- the staff analysis, excuse me, the order
22 explains that the staff -- the order explains the
23 staff analysis quite well and I'm persuaded that at
24 the end of the day this project will reduce
25 greenhouse gases in New York State.

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2 I do believe that the question is
3 germane to whether or not to vote yes or no on this
4 item, and I would hope that if the analysis showed
5 the opposite result that this order would not be
6 before us at all. For this reason I'm going to vote
7 yes. I thought about iterating some of the -- the
8 key questions raised by the public comments but I
9 don't think I could do a better job than what's
10 already in the order and I won't take the time to
11 simply read the order.

12 That said I do want to address one
13 other point raised by the Sierra Club almost in
14 passing that the commission has endorsed a role for
15 RNG in decarbonizing the gas system. I don't think
16 we have. Here I will quote from the order. RNG may
17 become a viable and necessary resource in some
18 contexts as New York State transitions from fossil
19 fuels.

20 This is an equivocal statement that
21 does not supersede whatever will emerge from the
22 state's energy plan. To oversimplify, until such
23 time as we, as a state, have a more definitive policy
24 regarding RNG I'm going to look at these cases on an
25 individual basis. In this individual basis I'm going

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2 to vote yes as I will with the rest of the consent
3 calendar. Thank you.

4 CHAIRMAN CHRISTIAN: Thank you,
5 Commissioner. So I'm going to do a call for a vote
6 on consent agenda. My vote is in favor of the
7 recommendations in the consent agenda. Commissioner
8 Burman, how do you vote?

9 COMMISSIONER BURMAN: I vote yes
10 except 372 is a no.

11 CHAIRMAN CHRISTIAN: So just to
12 confirm, Item 372 you have a no vote?

13 COMMISSIONER BURMAN: Correct.

14 CHAIRMAN CHRISTIAN: Thank you. Mr.
15 Alesi, how do you vote?

16 COMMISSIONER ALESI: I vote yes on all
17 items.

18 CHAIRMAN CHRISTIAN: Commissioner
19 Edwards?

20 COMMISSIONER EDWARDS: I vote yes on
21 all items.

22 CHAIRMAN CHRISTIAN: Commissioner
23 Howard?

24 COMMISSIONER HOWARD: I'm yes on all
25 items except Item 372 and 374 where I am a no.

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2 CHAIRMAN CHRISTIAN: Commissioner

3 Valesky?

4 COMMISSIONER ALESI: I vote yes on all
5 items with the exception of Item 372 on which I'll be
6 voting no.

7 CHAIRMAN CHRISTIAN: Thank you. And
8 Commissioner Maggiore?

9 COMMISSIONER MAGGIORE: I vote yes on
10 all items.

11 CHAIRMAN CHRISTIAN: Thank you. Okay.
12 The items are approved and the recommendations are
13 adopted. So before we conclude today, I'd like to
14 address one final matter. I'd like to recognize the
15 departure of a very valued member of the department.
16 Someone who had a hand in many of the orders that
17 come before us over the years, particularly a few
18 that came before us today Mr. Warren Myers.

19 For the entirety of his career as a
20 public servant, Warren has served the Department of
21 Public Service beginning as an associate economist in
22 1989. He's worked his way up through the ranks
23 before retiring yesterday as a director. Warren is
24 passionate, outspoken and a staunch supporter of the
25 agency and our mission. And his contributions to our

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2 efforts is something that's impossible to quantify.

3 I know I speak for many of us when I
4 say his absence will be felt by all of us for a long
5 time to come and with the sister agencies with whom
6 we collaborate. It's my hope that he can find as
7 much joy in his retirement as he did from working
8 with us. And with that I open the floor to other
9 commissioners if they have comments. I'll start with
10 Commissioner Burman. Do you have anything you like
11 to say to about Warren?

12 COMMISSIONER BURMAN: Thank you. I'm
13 truly sad, really sad that Warren is retiring.
14 Warren and I have had our own issues -- have had our
15 issues over the years and one very public one
16 ironically at a session. I feel for me that we
17 worked through that in a way that allowed us to truly
18 see each other and respect each other. I gained a
19 deep respect and admiration for him and I grew
20 substantively as a result of our finding a way to
21 talk to each other. I'm going to miss him personally
22 and professionally. It will be hard to fill his
23 shoes and I wish him well in his next venture. Thank
24 you.

25 CHAIRMAN CHRISTIAN: Thank you,

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2 Commissioner Burman. Commissioner Alesi?

3 COMMISSIONER ALESI: Thank you, Mr.
4 Chairman. It's a sad day for the department that's
5 my view. I always enjoyed listening to and working
6 with him and I sent him the message the other day and
7 the message I will say right now I'd pretty much what
8 I said in an e-mail in which was that in my view he
9 is the bedrock of the department's intelligence and
10 professionalism. They found him to be enlightening,
11 very enlightening sometimes in an entertaining way.
12 Always willing to stare you down which when he was
13 right which usually was a 100% of the time. So I
14 think the department will miss him. I personally
15 will. I wish him all the best.

16 CHAIRMAN CHRISTIAN: Thank you.
17 Commissioner Edwards?

18 COMMISSIONER EDWARDS: Yeah, I would
19 just wish that Warren was here today. So it's very
20 telling. It speaks to Warren that -- that yesterday
21 was his last day and not today. You know, Warren
22 just calls balls and strikes as he saw them. I have
23 a lot of respect for him.

24 He's just very plain language, said
25 what he wanted to say, advocated for his positions

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2 and was true to his -- his role and his advocacy and
3 his -- and his skill and his craft. I just -- I
4 cannot speak enough about -- about Warren. I just am
5 -- am excited for him and his future. And I just --
6 I just find it a hoot that he didn't have today as
7 his last day. I think it's great. Good for him.
8 He's out of here.

9 CHAIRMAN CHRISTIAN: Thank you.
10 Commissioner Howard.

11 COMMISSIONER HOWARD: During my time
12 here on the commission and particularly that time
13 that I was chair there are a few individuals that as
14 Commissioner Alesi made mention to us are our
15 bedrocks. And -- and Warren is the rock. After a
16 relatively contentious period over a relatively
17 contentious issue, I shared with Warren, I gave him a
18 -- a picture of Diogenes. And for those that don't
19 know who Diogenes was, he was the man who searched
20 the world for the one honest man. Well, Warren, we
21 have one honest man and he's you. We'll miss you,
22 buddy.

23 CHAIRMAN CHRISTIAN: Commissioner
24 Valesky?

25 COMMISSIONER VALESKY: Thank you, Mr.

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2 Chair. I'll just state publicly what I shared with
3 Warren privately which is thank you, Warren. In my
4 relatively short time here I have learned a
5 tremendous amount from you and -- and have always
6 appreciated and will certainly miss the candor with
7 which you expressed your opinion which was always
8 based in sound and thorough research. So thank you
9 again Warren Myers and you will be missed. Job well
10 done.

11 CHAIRMAN CHRISTIAN: And Commissioner
12 Maggiore.

13 COMMISSIONER MAGGIORE: I didn't know
14 Warren before I joined the commission which in
15 retrospect to me is somewhat surprising and a little
16 bit embarrassing because I've been in state
17 government for 30 years. And as -- since I've been
18 here I've come to appreciate that the work that
19 Warren has been doing for his entire career is not
20 only extremely important but has made people's lives
21 better in the state of New York.

22 And, you know, in private
23 conversations I often say that I've been continually
24 impressed by the good staff work that I -- I see here
25 at -- at the commission. And when I say that I often

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2 have Warren in mind. The one other thing I'll say is
3 to paraphrase something that I wrote in a little card
4 because I think it was funny but also true. We have
5 -- he and I had had discussions about what
6 constitutes a benefit, and what I think there's no
7 discussion about is the work that he's been doing has
8 been a benefit to the State of New York. So I'm
9 sorry that we're not going to be able to work
10 together longer, but I want to join everybody else in
11 congratulating on a career well done. Thank you.

12 CHAIRMAN CHRISTIAN: Thank you,
13 Commissioner. So I'd just ask everyone to join in me
14 a round of applause for Warren.

15 Madam Secretary, is there anything
16 further coming for us today?

17 SECRETARY PHILLIPS: There is nothing
18 further.

19 CHAIRMAN CHRISTIAN: Excellent. Thank
20 you. With that I adjourn today's meeting. Thank you
21 everyone.

22 (The meeting adjourned at 11:21 a.m.)

23

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25

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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 40, 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 21st day of November, 2022.

11

12

13 MONIQUE HINES, Reporter

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