

1 12/15/2022 - Monthly Meeting

2 STATE OF NEW YORK

3 PUBLIC SERVICE COMMISSION

4 MONTHLY MEETING

5

6 Thursday, December 15, 2022

7 10:31 a.m. until 1:20 p.m.

8 ESP, Building 3, 19th Floor Boardroom

9 Albany, New York

10

11 COMMISSIONERS:

12 RORY M. CHRISTIAN, Chair

13 DIANE X. BURMAN

14 JAMES S. ALESI

15 TRACEY A. EDWARDS

16 JOHN B. HOWARD

17 DAVID J. VALESKY

18 JOHN B. MAGGIORE

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

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

7 SECRETARY PHILLIPS: There are no
8 changes to the final agenda. Before we proceed
9 though I would like to just ask if everyone can
10 please make sure to turn on your microphones and
11 please speak loudly. We were having some sound
12 issues earlier this morning. Thank you.

13 CHAIR CHRISTIAN: Thank you for that.
14 And if you continue to notice those sound issues
15 please let us know and we'll adjust accordingly.
16 Okay. First I'd like to conduct a roll call of
17 Commissioners. When I call your name please confirm
18 that you are with us today. Commissioner Diane
19 Burman.

20 COMMISSIONER BURMAN: Present.

21 CHAIR CHRISTIAN: Commissioner James
22 Alesi.

23 COMMISSIONER ALESI: Here.

24 CHAIR CHRISTIAN: Would you be so kind
25 as to speak a little louder and closer to the mic?

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2 COMMISSIONER ALESI: I am here.

3 CHAIR CHRISTIAN: Thank you.

4 Commissioner Tracey Edwards.

5 COMMISSIONER EDWARDS: I am here.

6 CHAIR CHRISTIAN: Thank you.

7 Commissioner John Howard.

8 COMMISSIONER HOWARD: Here.

9 CHAIR CHRISTIAN: Thank you,

10 Commissioner Dave Valesky.

11 COMMISSIONER VALESKY: Here and good

12 morning.

13 CHAIR CHRISTIAN: Good morning. And

14 Commissioner John Maggiore.

15 COMMISSIONER MAGGIORE: Here.

16 CHAIR CHRISTIAN: Thank you. We'll

17 move to the regular agenda, our first item for

18 discussion, Item 201 case 22-M-0645 related to the

19 investigation into Central Hudson Gas and Electric

20 Corporation's customer information and billing system

21 presented today by John Sipos our Deputy General

22 Council and Dave Rossi and Deputy Director of the

23 Office of Investigation and Enforcement.

24 Aric Rider and Debbie Evans are here

25 and available for questions as well. Please begin

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2 Mr. Sipos.

3 MR. SIPOS: Good morning, Chair
4 Christian, and Commissioners. Item 201 is a proposed
5 order for your consideration directing Central Hudson
6 Gas and Electric Corporation to show cause why the
7 Commission should not commence a prudence proceeding
8 and/or a civil penalty action and/or an
9 administrative enforcement and penalty action
10 pursuant to Public Service Law Sections 25 and 25A
11 for apparent violations of the Public Service Law
12 rules and regulation^s adopted thereto and Commission
13 orders.

14 ~~The purpose~~ ^{proposed} order to show cause
15 references and is based upon a report prepared by the
16 Office of Investigations and Enforcement. And by way
17 of background on September 1, 2021, Central Hudson
18 deployed a new customer information and billing
19 system. In the months following that implementation
20 Central Hudson customers complained to local
21 officials and to the New York State Department of
22 Public Service about excessive and delayed bills and
23 a lack of customer support by the company.

24 Complaints continued and increased in
25 the late fall and into the winter. On April 5, 2022,

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2 the Office of Investigation and Enforcement commenced
3 a formal confidential investigation into the cause of
4 the complaints and ~~in~~ the complications related to
5 Central Hudson customer and billing system upgrade.
6 Today we are publicly releasing the report of -- of
7 our office's findings which are current as of
8 November. We reserve the ability to augment those
9 findings depending on additional information.

10 The draft order for your consideration
11 would initiate a formal administrative process
12 focused on enforcement related issues. It is not a
13 final conclusion, it is not a verdict of the
14 Commission. Regarding potential next steps,
15 depending on the company's response, this matter is
16 likely to return to the Commission for further
17 action. And at this point, I'd like to turn it over
18 to Dave Rossi to summarize the O.I.E. report.

19 MR. ROSSI: Thank you, John. The
20 report lays out the information O.I.E. has obtained
21 and reviewed, it summarizes the current state of the
22 investigation. Thank you. And it is available for -
23 - to the public. For those reasons I will simply
24 summarize some of the O.I.E. findings and I've
25 prepared a brief slide deck.

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2 To put this investigation in context
3 back in June of 2018, the Commission approved funding
4 for modernization of Central Hudson's customer
5 information and billing systems. The approval was in
6 part based on Central Hudson's representations that
7 it needed to build the system that could handle non-
8 traditional, complex, billing scenarios such as
9 community distributed generation C.D.G., net metering
10 and retail choice.

11 Central Hudson's stated goals were to
12 improve customer experience, improve system
13 performance and resilience, improve productivity and
14 efficiency, and to create a seamless customer
15 experience. The new system went live on September
16 1st, 2021 and it was riddled with defects from the
17 start.

18 At go-live, there were hundreds of
19 major and critical defects within the system. Some
20 of it which Central Hudson was aware of and some of
21 which it was not. System problems resulted in
22 overcharges, delayed bills, improper estimates,
23 automatic withdrawals from customer's bank accounts
24 for multiple months' worth of bills.

25 Negative impacts on community solar

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2 and retail energy products and a precipitous decline
3 in customer service and satisfaction. O.I.E.'s
4 investigation reveals that the system problems were
5 foreseeable, avoidable, and with the direct result of
6 company mismanagement.

7 O.I.E. found that Central Hudson
8 failed to properly test the system, failed to
9 properly staff the project, failed to properly train
10 the staff it did have, failed to listen to its staff
11 when concerns were raised regarding testing and
12 overall readiness and failed to resolve those
13 concerns. Failed to communicate effectively within
14 the company and failed to communicate effectively
15 with its customers and the public.

16 Following implementation, the system
17 caused overcharges affecting over eight thousand
18 customers including net meter customers, budget bill
19 customers, HEAP participants, and others. Following
20 implementation, the system caused delayed billing for
21 thousands of customers, some delayed billing
22 continues to this day.

23 As you can see from the slide, the
24 company's metrics reflect the billing exceptions were
25 below 1,000 prior to go-live and jump to 20,000 in

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2 September, 40,000 in November, and 60,000 in March.

3 As of September of this year, the exceptions were
4 still ten times what they were before launch.

5 Following implementation, Central
6 Hudson's customer service performance indicators
7 showed sharp declines. Following go-live, Central
8 Hudson missed its customer satisfaction goal of 89%
9 every month from September 21, 2021, to today.

10 In August of last year, prior to go-
11 live over 89% of Central Hudson customers were
12 satisfied with their service, today that number is
13 61%. Following go-live the percentage of customers
14 who describe themselves as dissatisfied or very
15 dissatisfied with their service increased
16 dramatically.

17 Following go-live, the percentage of
18 adjusted bills which had remained below 2% in each of
19 the first three quarters of 2021, jumped to double
20 digits in September and October, it was in double
21 digits every month in 2022 hitting a high of over 20%
22 in March. Between go-live on September 1st, 2021,
23 and one year later, on September 1st, 2022, the
24 D.P.S. Office of Consumer Services received over 2000
25 complaints related to high bills, estimated bills,

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2 inaccurate bills, and delayed bills.

3 By comparison, the call center had
4 received fewer than 200 similar complaints for the
5 two years prior to the system change. In our report,
6 O.I.E. alleges that Central Hudson has committed
7 several apparent violations including violation of
8 the Public Service Law, regulations, and Commission
9 orders. The report provides evidence that Central
10 Hudson demanded unjust and unreasonable charges to
11 thousands of customers, failed to provide adequate
12 service by failing to provide bills in a timely
13 fashion.

14 The company use estimated billing in a
15 manner inconsistent with the Public Service Law and
16 Commission orders and the company inappropriately
17 back-billed customers. Turning to the issue of
18 prudence, a related though separate issue, the report
19 contains information that Central Hudson's management
20 of the project unreasonably and imprudently incurred
21 cost associated with the development, planning,
22 management, and implementation of the deployment of
23 the new C.I.S. and billing system.

24 The proposed order before you for
25 consideration requires Central Hudson to answer to

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2 the allegations contained within the report and to
3 show cause within 30 days why the Commission
4 shouldn't commence a prudence proceeding and/or
5 penalty action pursuant to the Public Service Law.

6 The order also requires Central Hudson
7 to submit within 30 days of the date of this order to
8 Department staff, 1), a plan to adjust the company's
9 billing practices to conduct actual meter reads each
10 month for its electric and gas service customers and
11 to discontinue its practice of alternate month
12 billing estimates for its customer accounts.

13 And 2), a study evaluating if monthly
14 meter reading and an end to alternate month bill
15 estimates is in the interest of the company's
16 customers. Staff is available for any questions you
17 may have.

18 CHAIR CHRISTIAN: So I, again, want to
19 thank the Office of Investigations and Enforcement
20 for its thorough review of the events concerning
21 Central Hudson's transition to this new billing
22 system. I want to note that this investigation is
23 separate and apart from the ongoing annual management
24 audit, an audit which is conducted periodically for
25 all utilities.

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2 Now the findings in this report, which
3 I think you mentioned are publicly available ^{or} will be
4 at the conclusion of today's session summarizes your
5 findings to date about the events leading up December
6 -- September 1st and the start of their transition as
7 well as the company's actions after the transition.

8 In addition to this ongoing
9 investigation, I want to note that the Office of
10 Consumer Services is closely monitoring the status of
11 customer complaints and is also monitoring Central
12 Hudson's progress in addressing and remedying the
13 concerns raised during this period.

14 So again, this order to show cause
15 will move us one step closer addressing this issue
16 and once we receive the response and it's
17 subsequently reviewed by our office, ^{the} Commission will
18 then determine the need for any subsequent actions.
19 So I want to thank you for your time today and go to
20 comments from Commission Burman.

21 COMMISSIONER BURMAN: Thank you. I
22 want to thank staff for the diligence in this report.
23 For me, there are two things that I am sort of
24 focused on. Really the first is that I am aware of
25 the toll that this takes on both the staff and

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2 customers of Central Hudson.
3 There -- we have four ongoing matters
4 that we were addressing. We're addressing the
5 February 4th, winter storm response investigation.
6 We're addressing the management and operations audit.
7 We're addressing the customer information and billing
8 system modification review, and then we're addressing
9 today what brings us to the order to show cause and
10 they are all separate however there is a lot of
11 overlap.

12 Central Hudson is a small company and
13 they have traditionally had significant positive
14 customer engagement here I'm -- am cognizant of the
15 fact that the employees who are still trying to do
16 all that they need to do for service to the
17 customers, especially during the winter when they're
18 involved in winter planning as well must feel very
19 much overwhelmed by all that is now on their plate.

20 And so I really just -- for me looking
21 at it from that perspective I need to remind them
22 that this is part of the process to ensure that we
23 are doing all that we can moving forward to ensure
24 that we get back to the business of customer service
25 safe and reliable and that their job is to do what

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2 they're always been doing which is to do that as due
3 diligently as they can, but I recognize the weight of
4 that especially at this time.

5 So it's important for me to at least
6 acknowledge that some of what I'm thinking about is
7 all of that. The second are the customers really and
8 the most importantly in ensuring them that we are due
9 diligently look at all of these issues, that we were
10 working with the company and others to ensure that we
11 are helping to move forward and resolve these issues.
12 And so I do appreciate the Chair's comments on what
13 we are doing especially with the Office of Consumer
14 Services because that's really sort of extremely
15 important.

16 As to this order to show cause which I
17 will be voting in favor of, I do just want to remind
18 folks that this is -- this order to show cause does
19 not state any conclusion or findings other than that
20 the report given to us provides sufficient enough
21 concern to require Central Hudson to now have to
22 answer on the allegations that are contained in that
23 report and that we're not making any findings in
24 support or against the report itself.

25 We're not rendering a final

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2 determination today, the report by the Department of
3 Staff and the Office of Investigation Enfor --
4 Enforcement includes information that if
5 substantiated can raise concerns. The company is
6 entitled to review the report, it will be released
7 today, and present its response to the report and
8 today's order to show cause. After the company has
9 had the opportunity to respond, we will then decide
10 the next steps as appropriate and I look forward to
11 that engagement. So thank you.

12 CHAIR CHRISTIAN: Thank you.
13 Commissioner Alesi.

14 COMMISSIONER ALESI: Thank you, Mr.
15 Chair. I don't have any questions, but I do support
16 the request for an investigation based on the detail
17 and objective presentation and depending on the
18 outcome that we might be presented with opportunities
19 to improve customer service, establish this solid
20 business model for the industry as a whole, and it's
21 the overall confidence in the future operations of
22 the company and I will voting yes.

23 CHAIR CHRISTIAN: Thank you.
24 Commissioner Edwards.

25 COMMISSIONER EDWARDS: Yes, can you

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2 hear me?

3 CHAIR CHRISTIAN: Yes.

4 COMMISSIONER EDWARDS: Okay, great.

5 So I am too awaiting the investigation, but what I
6 will say that based on the report that we just heard
7 from the Office of Investigation it appears that the
8 company failed in their overall stated goals which
9 was, did they improve customer service, no. Did they
10 improve system performance and reliance, no. Did
11 they improve productivity and efficiency, no.

12 And did they create a seamless
13 customer experience, no. So even if we just look at
14 their -- their own stated goals, they didn't meet
15 them which is -- looks like it was preventable. So
16 we'll see what the -- the investigation bears -- bear
17 that. out Thank you.

18 CHAIR CHRISTIAN: Thank you.

19 Commissioner Howard.

20 COMMISSIONER HOWARD: Thank you. I
21 also want to welcome Mr. Rossi for his first
22 presentation, good job.

23 MR. ROSSI: Thank you.

24 COMMISSIONER HOWARD: This is
25 seriously concerning and I don't believe in,

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2 particularly if you've read the Hudson Valley Press,
3 there are thousands of angry people, I mean very
4 angry people and -- and we put -- this company, I
5 think put dozens if not hundreds of families in
6 economic real harm particularly those that were
7 relying on automatic bill withdrawal. Again, a few
8 100 dollars or 500 dollars, either way, can really
9 throw a household budget, you know, way out of
10 kilter.

11 One thing that, as we do this
12 investigation, which I hope is thorough yet prompt
13 since there is a great deal of anger out there, one
14 thing that occurs to me is that since my time on the
15 Commission every time a company wants to install a
16 new piece of software whether regarding billing,
17 outage management, you name it, it doesn't go right,
18 it just doesn't go right.

19 And I think I would hope that one of
20 the lessons learned that we get out of this
21 proceeding is before this Commission and staff lets
22 companies launch this big new platforms that we have
23 real assurance that they are going to work on day one
24 and if they don't that there is provisions by which
25 to immediately rectify the problems that may exist.

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2 As we know there are multiple
3 companies right now that have billing issues. The
4 other issue that will be coming and I hope we'll take
5 great look at is the issue of headcount. If
6 utilities don't have enough people to read meters
7 that's a problem. Is -- and it's not an acceptable
8 excuse well, we just didn't have the people.

9 Well, this Commission grants
10 sufficient revenues to companies to do that prime
11 function and again, I think there -- there is two
12 things to get to the root cause and as good of
13 outcome, we can get ~~can't~~ for customers on this, but use this
14 as an opportunity to really look at as we launch
15 software platforms, and as we look into the future
16 they will be more complex, the system will be a 100%
17 reliable relying on them.

18 And -- and in this case, the failure
19 has been largely economic when it comes to actual
20 service and that failure that would be equally and
21 actually more unacceptable than this, but again I
22 look forward to the outcome and the I -- I do hope
23 it's swift.

24 CHAIR CHRISTIAN: Thank you.

25 Commissioner Valesky.

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2 MR. VALESKY: Thank you, Mr. Chair.

3 It -- it strikes me as -- as much of the work that is
4 done by the outstanding public servants here as part
5 of the public service is often done in relative
6 anonymity, quite often doesn't draw headlines, it
7 doesn't draw attention, but that's certainly not the
8 case here.

9 So when I acknowledge Dave, you and
10 your team, and you John, the incredible work that
11 you've done in this investigation and compiling this
12 report. I know and I -- I think it's important for
13 everyone to know that it was certainly not done and
14 has not been done in relative anonymity.

15 It has been done in -- in front of a
16 pretty bright spotlight. There are, as Commissioner
17 Howard indicated earlier, hundreds if not thousands
18 of customers of Central Hudson who have rightfully
19 been very vocal about what has happened. There has
20 been properly intense media scrutiny about what has
21 been going on.

22 There have been numerous legislators
23 at the State level, at the county level, at the local
24 level who have been in touch with certainly myself
25 and I think probably all of my colleagues here on the

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2 Commission as well. So it's been a bright spotlight
3 that you've done your -- your work thus far. And --
4 and I think that's important to underscore because
5 from what I've seen you've used -- you have exercised
6 the diligence that it has taken to come -- to bring
7 this investigation to this point now.

8 But this is only one point along the
9 path and certainly, this is the -- the point at which
10 we as Commissioners enter the process, I guess,
11 through our consideration of this order to show
12 cause. Certainly, in my opinion, the reasons to do
13 this order to show cause are numerous. It is
14 important that the process continue from this point
15 and in that regard I'll certainly be not only
16 supporting the order, but anxiously awaiting the
17 response of the company to some very serious
18 allegation that you indicate in your report. Thank
19 you.

20 CHAIR CHRISTIAN: Thank you.
21 Commissioner Maggiore.

22 COMMISSIONER MAGGIORE: Thank you.
23 Can you hear me okay?

24 CHAIR CHRISTIAN: Little closer to the
25 mic would be helpful.

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2 COMMISSIONER MAGGIORE: Okay. So some
3 of the issues that you've raised in this report are -
4 -.

5 CHAIR CHRISTIAN: Sorry.

6 SECRETARY PHILLIPS: I'm sorry, can
7 you please -- please speak louder?

8 COMMISSIONER MAGGIORE: Okay. Is this
9 any good, can you hear me?

10 CHAIR CHRISTIAN: It's better, but I
11 know that's awkward for you. Can we get a different
12 -- there you go.

13 COMMISSIONER MAGGIORE: Can you hear
14 me better on this point?

15 CHAIR CHRISTIAN: A little better.

16 SECRETARY PHILLIPS: Yes.

17 COMMISSIONER MAGGIORE: Can -- can you
18 hear me better?

19 CHAIR CHRISTIAN: Much better, yeah,
20 that's the one.

21 COMMISSIONER MAGGIORE: Okay, all
22 right. So the issues that are -- that they are
23 raising in this presentation are obviously very, very
24 concerning. I -- I'm going to withhold making any
25 comments beyond that, but I do have a question. The

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2 term prudence used in this context I think has a more
3 specific meaning than it has in day to day
4 conversations and for the sake of anybody listening
5 in, I was hoping you could describe in better detail
6 of what that means in this context.

7 MR. SIPOS: Good -- good morning,
8 Commissioner, John Sipos here in Albany. Yes, I
9 think you put your finger on -- on a -- on a very
10 important question. The term prudence does have a
11 specific term in the utility regulation space that we
12 are in. It is -- and it is a really another way of
13 thinking about prudence in is thinking about the term,
14 you know, is what is reasonable, what would a reasonable
15 person or a reasonable corporation do in a situation
16 such as this. What would a reasonable responsible
17 company do if it was faced with a -- an initiative of
18 rolling out a new computer system.

19 So prudence does have a specific
20 meaning in utility regulation. This Commission in the
21 past has initiated, conducted, and completed prudence
22 reviews. There is the case from the late '70s
23 involving Indian Point Unit 2 where the Commission
24 found that an outage, a refueling outage went on too
25 long through inadequate advance planning. There is

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2 also the case, I'm sure folks remember, about the
3 Long Island Lighting Company in Shoreham where this
4 Commission also weighed in finding that certain
5 actions there reflected either poor planning,
6 mismanagement or inefficiency.

7 So really what we're -- what prudence
8 is, is were the actions that the company took
9 reasonable to the task or the challenge that the
10 company was confronted with, and I think, you know,
11 there -- there are just I -- I guess I would close by
12 saying there is, you know the focus could be on
13 certain sub aspects of the -- of the challenge or the
14 overall project in general. Did the project meet the
15 objectives that it set out to, or did it merely
16 replicate the system that it already -- that already
17 existed there. So I hope that, you know, provided
18 some background and context to your question.

19 COMMISSIONER MAGGIORE: Yes, Thank you
20 very much. That's all I have, I will be voting to
21 move forward.

22 CHAIR CHRISTIAN: Thank you both. So
23 we'll do a call for a vote. My vote is in favor of
24 the recommendation to institute a proceeding to
25 direct Central Hudson Gas and Electric to show cause

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2 as discussed. Commissioner Burman, how do you vote?
3 COMMISSIONER BURMAN: Yes.
4 CHAIR CHRISTIAN: Commissioner Alesi?
5 COMMISSIONER ALESI: Yes.
6 CHAIR CHRISTIAN: Commissioner
7 Edwards?
8 COMMISSIONER EDWARDS: Yes.
9 CHAIR CHRISTIAN: Commissioner Howard?
10 COMMISSIONER HOWARD: Yes.
11 CHAIR CHRISTIAN: Commissioner
12 Valesky?
13 MR. VALESKY: Yes.
14 CHAIR CHRISTIAN: Commissioner
15 Maggiore?
16 COMMISSIONER MAGGIORE: Yes.
17 CHAIR CHRISTIAN: Thank you, the vote
18 is approved and the recommendations are adopted.
19 We'll now move on to the second item
20 for discussion on today's agenda. Item 301. Case
21 15-E-0302 as it relates to the 2023 Clean Energy
22 Standard Administrative Funding.
23 This will be presented today by Marco
24 Padula, Director of the Office of Markets and
25 Innovation. Tom Dwyer, Assistant Counsel and Pete

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2 Sheehan, Utility Analysis. Sorry, Utility Analysts
3 are also available for questions. Marco, please
4 begin when you're ready.

5 MR. PADULA: Good morning, Chair
6 Christian, and Commissioners. Item 301 is a draft
7 order in Case 15-E-0302 proceeding on motion of the
8 Commission to implement a large-scale renewable
9 program and a Clean Energy Standard. Addressing New
10 York State Energy Research and Development Authority
11 or NYSERDA -- NYSERDA's request for administrative
12 funding for the 2023 C.E.S. compliance here.

13 As you are aware, NYSERDA has been
14 designated by the Commission as the administrator of
15 the C.E.S. program and is required to file a petition
16 yearly to recover the costs associated with
17 administering the program. On July 29th, 2022,
18 NYSERDA filed a petition seeking Commission approval
19 of \$38.8 million in funds to cover its estimated
20 costs and fees for administering the C.E.S. program
21 for the 2023 compliance year.

22 This funding would cover the
23 administration of the renewable energy standard,
24 which is comprised of tiers 1, 2, and 4 and the
25 offshore wind standard, and the zero-emissions credit

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2 program. The NYSERDA proposed budget for 2023
3 represents an increase of approximately \$8.6 million
4 or 29% over the 2022 authorized budget of 30.2
5 million.

6 NYSERDA proposed to fund the renewable
7 energy standard admin budget with surplus revenues
8 received during previous years, including bid fees,
9 contract security forfeitures, alternative compliance
10 payments, and interest income. For the ZEC program,
11 NYSERDA proposed to continue to fund the program's
12 admin functions through an adder.

13 The petition was published for comment
14 in the State register on August 24th, 2022. And
15 comments were received by the Alliance for Clean
16 Energy of New York and the Clean Energy parties which
17 are comprised of the National Resource Defense
18 Council, New York League of Conservation Voters, The
19 Nature Conservancy, Sierra Club, Environmental
20 Advocates of New York, Scenic Hudson, New Yorkers for
21 Clean Power, and American Farmland Trust.

22 All commenters support NYSERDA's
23 petition and recommend approval. In the draft order
24 before you, the Commission approves with
25 modifications, NYSERDA's request for the 2023 C.E.S.

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2 admin funds. The modifications include downward
3 adjustments to the proposed number of new full-time
4 equivalents and the proposed Technical Support
5 Budget.

6 Related to F.T.E.s or Full-Time
7 Equivalents, NYSERDA requests additional staffing of
8 19 full-time equivalents to the existing 22.25
9 F.T.E.s currently on staff. The draft order
10 recognizes the need for additional F.T.E.s in the
11 areas of contract management, solicitation support,
12 legal, and offshore wind support, while also
13 recognizing the existing level of C.E.S. program
14 managers, and the number of F.T.E.s in NYSERDA's
15 Communications and Corporate Marketing Departments.

16 The modifications include rejecting
17 the addition of 5 of the incremental 19 F.T.E.s
18 requested. The 5 include 2 strategy and policy
19 development project managers, 1 communications
20 project manager, 1 marketing project manager and 1
21 junior analyst. The reduction to the overall budget
22 associated with the removal of these positions totals
23 \$1.3 million.

24 With this reduction, the addition to
25 salary and overhead represents a 31.3% increase in

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2 salary and overhead over the 2022 budget. These
3 additional new hires will enable NYSERDA to add skill
4 sets to comply with the new initiatives, such as the
5 Accelerated Renewable Energy Growth and Community
6 Benefit Act, and the New York buy American Act.
7 Excuse me, layered on top of the C.E.S. general
8 requirements related to the operation of the
9 programs.

10 The petition also requests funding for
11 technical support which includes costs associated
12 with ongoing consultant support, development of
13 R.F.P.s, technical evaluation panels for NYSERDA
14 procurements. The requests for these services
15 increase approximately 38% over the 2022 budgeted
16 level and represents an increase of approximately
17 38%.

18 The scope of the technical support
19 work includes long-term forecasting for solicitation
20 evaluations. Various analyses required to meet the
21 State's climate goals, like the offshore wind
22 masterplan 2.0. Assessing transmission constraints
23 and purchase of proprietary datasets, such as
24 forecasts of future energy and capacity prices.

25 Similar to the reductions in the

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2 requested increases to the full-time equivalents.
3 The draft order adopts an overall reduction of \$4.2
4 million in the requested 2023 Technical Support
5 Budget. This represents a 25% percent reduction in
6 the Technical Support Budget requested and will
7 result in an increase in the budget of 3.3% compared
8 to the 2022 budget.

9 The draft order finds that this
10 reduction is justified given that several of the
11 technical support items proposed by NYSERDA are
12 either insufficiently justified or represent an
13 excessive commitment to resources outside of NYSERDA.

14 In addition, the draft order finds
15 that a reduction to the Technical Support Budget
16 commensurate with the reduction in the number of
17 F.T.E.s is appropriate given the relationship between
18 these categories of support. And the increased
19 F.T.E.s authorized in this order should provide
20 NYSERDA with the internal technical resources to
21 reduce the need for third-party technical support.

22 Overall, the draft order finds that
23 the modifications to the proposed budget will balance
24 the need to administer and implement the continued
25 growth and success of New York's Clean Energy

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2 Standard effectively while minimizing ratepayer
3 impacts.

4 Finally, the draft order authorizes
5 NYSERDA to use the previously collected revenues to
6 fund the 2023 ZEC program -- administrative costs and
7 fund the 2023 ZEC program administrative costs
8 through the ZEC adder.

9 Also, NYSERDA shall continue to file
10 quarterly reports containing itemized expenses
11 associated with the administration of the renewable
12 energy standard and ZEC credit programs. That
13 concludes my presentation, and we are available for
14 any questions.

15 CHAIR CHRISTIAN: Thank you, Marco. I
16 appreciate your review and bringing this to us today.
17 When the Commission first acted on the Clean Energy
18 Standard in 2016, the approach and management
19 structure to meet the targets of New York's energy
20 environmental goals were first established. And
21 since then, the goals of both the C.E.S. program,
22 sorry, the goals of the C.E.S. program have evolved
23 in tandem with the funding to meet growing needs.

24 The C.E.S. modification order and the
25 offshore wind framework orders you mentioned earlier

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2 being two recent examples, further expanding the
3 scope of that original ambition. With the passage of
4 the C.L.C.P.A., which set even higher renewable
5 energy and G.H.G. reduction goals, the C.E.S. now
6 serves as the tool for meeting the requirements of
7 these statutory directives and is the prime driver
8 for enabling the Climate Leadership and Community
9 Protection Act goals.

10 What we've seen here today highlights
11 how far we've come since 2016. As you mentioned, the
12 projects have evolved in size and complexity and the
13 requirements are greater than they were when we first
14 began. And based on the integration analysis
15 conducted as part of the scoping plan, the number of
16 projects completed each year is likely to rise over
17 time.

18 So adoption of the NYSERDA
19 administrative budget today will enable the continued
20 growth of clean, renewable generation in New York
21 State. And for these reasons, I will be supporting
22 the draft order. Thank you. Commissioner Burman?

23 COMMISSIONER BURMAN: Thank you so
24 much. I want to take a moment to thank staff. It's
25 clear you did a very thorough job and tried to

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2 sharpen the pencils in what was put before you. I'm
3 not going to be voting for this item today. And I
4 want to explain my vote.

5 It is not a -- it is not against
6 NYSERDA. And it is not against the goals that we
7 have for our State energy policies. We are stewards
8 of the ratepayer monies. And that's something that
9 we take very seriously. We need more resources
10 across the board to do our job. Not just at NYSERDA,
11 but everywhere.

12 But we also need to be mindful of
13 where those dollars are coming from. And our job as
14 the Commission is to look at this and to see, is this
15 appropriate and what else or perhaps some
16 alternatives. I need to give a little history since
17 I have voted no each and every time NYSERDA has come
18 seeking funding for this. When we started the REV
19 proceedings and then continued with the Clean Energy
20 Standard and C.L.C.P.A.

21 Initially with the REV proceeding, the
22 focus was on that we would soon decrease subsidies.
23 We would by doing all this also have declining
24 ratepayer collections. And ratepayer funding would
25 not continually creep up. We have seen, though, a

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2 ramping up of ratepayer dollars and costs. That is
3 something that I think we need to be concerned about.

4 I recognize the workload and I
5 recognize that we need proper resources to do our
6 jobs, again across the board not just at NYSERDA. In
7 2019, when we had the petition seeking administrative
8 funding for the REV program, the --

9 SECRETARY PHILLIPS: It appears that
10 we lost audio, so can we hold for a second? I'm
11 sorry.

12 COMMISSIONER EDWARDS: Yeah, that's
13 all right.

14 CHAIR CHRISTIAN: Okay. We'll take a
15 moment.

16 (Off the record)

17 (On the record)

18 CHAIR CHRISTIAN: .
19 Yeah. Okay. We're
going to begin in a few seconds. Thank you for your
20 patience. Okay. Good morning, everyone. We're now
21 restarting -- reconvening. Apologies for the
22 technical issues.

23 I do want to confirm that the webcast
24 will be made available and the transcript will also
25 be made available in the event we have any additional

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2 I.T. issues going forward? So we're going to pick up
3 where we left off with Item 201 and Commissioner
4 Burman's comments. Thank you.

5 COMMISSIONER BURMAN: Thank you. I'm
6 not going to restate all that I said before. I will
7 just try to get back to where I think we might have
8 dropped off. I was going through the history of the
9 prior items where the NYSERDA petitioned us seeking
10 funding.

11 In 2019, the petition came before us.
12 At that time, the only commenter on -- in -- on the
13 item at petition was SAPA, was the joint utilities.
14 And the joint utilities at that time, noted that
15 NYSERDA was proposing to more than double the funding
16 necessary to administer the R.E.S. at the time, and
17 pointed out that the NYSERDA's administrative costs
18 represented a significant portion of the total
19 program costs.

20 And the joint utilities were also
21 focused on the number of A.C.P.s. being paid to
22 NYSERDA by L.S.E.s and that that was increasing, and
23 was expected to trend upwards. The joint utilities
24 did request in their comments at that time that the
25 Commission would require NYSERDA to develop a

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2 spending and investment plan for A.C.P. funds and to
3 file such plan for public comment. And they also
4 requested that A.C.P. -- A.C.P. funds be returned to
5 customers in a fair and a equitable manner.

6 We did not approve that request by the
7 J.U.s, the Joint Utilities, under the rationale that
8 we had other reporting and filing requirements that
9 we asked NYSERDA to do, and that was unnecessary. I
10 did vote no at the time. And -- and the focus was, I
11 didn't think that we had enough in the petition to
12 support it. And I also was concerned that we were
13 just adopting the petition in whole, and making no
14 modifications to it. And that concerned to me that
15 it seemed like we were just checking the box and just
16 a pass through.

17 And the stewardship of the ratepayer
18 funds did not seem to be due diligently dealt with.
19 Then, in October of 2020, where there was an order
20 adopting modification to the Clean Energy Standard.
21 There were a number of different issues that came up
22 in that petition separate from the administrative
23 funding.

24 I voted no on that order for a number
25 of different reasons, but also as to the stewardship

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2 of ratepayer dollars as well. I point out that in
3 that order we did also note that none of the comments
4 that came in on that order addressed administrative
5 funding. And in the order the Commission was looking
6 to address the funding elements that were raised in
7 the white paper.

8 And again, no comments were received
9 on that specific issue, so the Commission found that
10 combining the administrative funding, reporting, and
11 proposals for all clean energy standard programs in
12 one comprehensive annual funding request would
13 provide stakeholders with a clear and comprehensive
14 opportunity to review and comment on the cost of
15 administrating the combined C.E.S. portfolio of --
16 the -- of programs. And so NYSERDA was then directed
17 to file a comprehensive annual petition regarding
18 funding for the C.E.S. programs for years 2022 and
19 beyond.

20 I -- I also, as I said before, I also
21 voted no at that time, thinking it was not
22 sufficient. And also, we were adopting without
23 really any modifications to the funding, in -- in any
24 real way and it -- it concerned me. And we were not
25 getting under the hood about the concerns I have

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2 about the increasing rate payer dollars being --
3 being used and seeming to not really be enough due
4 diligence in adequately overseeing NYSERDA's funding
5 request.

6 So then, in December 2021, there was
7 an order approving the 2022 Clean Energy Standard
8 Administrative budget. I -- I voted no at that time,
9 as well for similar reasons. And I do note that
10 there were no public comments filed in support or
11 opposition to that. So we've had the history of
12 three petitions and only -- at that time, only one
13 comment had been made by the joint utilities. And so
14 the absence of those comments were troubling to me as
15 well.

16 Here, we now have a petition that is
17 put forward and we got two comments. One from ACE
18 New York and one was a coalition of Clean Energy
19 Partners or -- or that's what they call themselves,
20 C.E.P., which represents a number of different
21 entities. And they support the administrate -- us
22 adopting the need for them to have their
23 administrative funding budget approved.

24 I was struck though, when I read those
25 comments, that I did not think that they really gave

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2 any real under the hood detail, flushing out the
3 support. It was really sort of, frankly, a general
4 yes we believe that NYSERDA needs this to do an ever-
5 increasing workload, and it's important to us. I
6 recognize that, but I was left struck by the fact
7 that many of them are also looking for funding from
8 NYSERDA.

9 So it left me a little uncomfortable
10 that they were submitting it, especially because they
11 had not submitted before. And it struck me as
12 something that, it's important for us to be mindful
13 of. Because petitions that have comments, that come
14 in, the commenters, especially, ones that generally
15 give a -- a much more substantive analysis of things
16 should not just be mere support letters. We
17 recognize that every State agency needs the proper
18 resources.

19 So I didn't feel that those commenters
20 added anything and generally made me just a bit
21 concerned about where that was coming from and why
22 now. Why not the other years, why now? So I just
23 raise that because I do think that it's important for
24 us to understand that. And -- and also, I don't want
25 this to be that NYSERDA or others feel they need to

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2 get support letters to say, you know, generic, yes,
3 we need more resources. We -- I understand that.

4 So here now, we have a proposal that
5 was submitted and staff did try to sharpen the
6 pencils and reduce the funding request, in terms of
7 staffing and the technical budget. However, I don't
8 think that it went far enough. And the reason for
9 that is -- is not that they're not deserving, but I
10 don't necessarily see that the petition lays out
11 clear accountability for how that increased amount is
12 actually going to be for -- for the benefit of the
13 ratepayers.

14 Again, it's a use -- usage of the
15 ratepayer funding. And so when I look to this, I do
16 think that, you know, as Winston Churchill said,
17 however beautiful the strategy, we need to look at
18 the results. I want to see that they're also showing
19 from their past requests, that there were results
20 oriented, that can prove that, yes, the increase of
21 these resources actually produced X results. And
22 without that, we would not have been able to do that.

23 And then have that really challenged
24 and made sure that that analysis is actually sound.
25 So for me, it -- it concerns me because I -- I don't

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2 think that just because we increase the staffing,
3 we're going to see, perhaps, a definite results to
4 that. Here, I'm also mindful that this petition, as
5 well as all other -- the other three petitions, they
6 are -- NYSERDA is, while giving detail on what they
7 are looking at doing in their workload, it really
8 comes down to the fact that the -- the -- the
9 legislative directives through the C.L.C.P.A. has
10 increased their workload, that they need to now
11 manage it, including in this most recent petition,
12 talking about staffing for the Climate Action Council
13 and other C.L.C.P.A. related items.

14 I'm struck by that because that is for
15 every State agency to be cognizant of the increased
16 workload from the legislative directives, whether
17 it's the C.L.C.P.A. and many other ones that are re -
18 - related and spun off for that. I don't see that
19 there is a due diligence in addressing, not just the
20 administrative costs that will be increasing for the
21 C.L.C.P.A., but for all other costs.

22 And that for me, it should be a more
23 holistic, Statewide real analysis and review, because
24 I don't think it's fair for us to say, yes, NYSERDA
25 is very deserving of all of this. However, our

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2 agency and other agencies also have a large role, if
3 not in some ways, especially, as it relates to things
4 like reliability, a larger role. And so I'm not
5 comfortable in carving out such an increase because
6 of the really sort of pancaking of the requirements
7 related to the C.L.C.P.A., which I think requires a
8 deeper dive Statewide on what that looks like.

9 And the proper usage of administrative
10 resources and the -- the dollar amounts that would be
11 attached to that. I also am cognizant that the ways
12 -- at least, as it seems to me, staff approached this
13 review, which I think was sound, was to try to do it
14 as due diligently as we do utility rate review in --
15 in -- in looking at their funding requests for
16 staffing.

17 However, it is not the same. There is
18 a much more deeper dive done when we look at utility
19 funding, through our rate case review, through
20 engagement in testimony that's put forward,
21 challenges to that, and then others involved in that
22 stakeholder process.

23 Second, when we were looking at it
24 from the utility perspective, we also do a prudence
25 review of the expenses that were incurred and look at

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2 that. And third, we do management and operations
3 audits of the utilities through an independent
4 process.

5 And one that also has public comment
6 and the use of an independent auditor. I think the
7 process here, when we go back to the order that
8 pushed everything into one, is not actually giving us
9 what the order tried to do. Which again, I remind
10 folks, it said that we -- we hope that by doing this
11 and having it in one comprehensive annual funding
12 request, will provide stakeholders with a clear and
13 comprehensive opportunity to review and comment on
14 the cost of administrating the combined C.E.S.
15 portfolio programs.

16 That hasn't happened. We don't have a
17 robust stakeholder process in this. And we don't
18 have others helping -- helping us to sharpen the
19 pencils. I also think it's very difficult for our
20 staff to be the ones who have to be sharpening the
21 pencils of their sister agencies.

22 And then, also, the very same staff
23 that are doing that are subject to then having to
24 work with their colleagues across sister agencies,
25 knowing that they may, you know, I mean, it -- it --

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2 it's an awkward situation at best, but I think it
3 presents itself as problematic. Especially because
4 our staff can say, yeah, we need resources too.

5 And by the way, we need resources to
6 oversee you. So if we're giving you all of this, it
7 makes it harder, because some of what the petition
8 says is, we need to do this because we need to do a
9 review of -- for example, offshore wind and what's
10 happening in that process. Well, our staff is the
11 ones that have to review all of that, and NYSERDA,
12 and the utilities.

13 And so I think that the case actually
14 should be flipped in a way that's much more
15 comprehensive Statewide on what is an appropriate
16 jurisdictional reach year. How do we ensure that we
17 are properly managing the increasing funding that's
18 going to be needed to do this, and how do we do it in
19 a way that we are stewards of our ratepayer dollars.

20 But then also, what else is there,
21 that it's not just coming from ratepayer dollars?
22 And I -- I think that that's really at the core. And
23 I think that it -- it requires us to perhaps rethink
24 how we actually manage and oversee this NYSERDA
25 budget in a way that actually is much more robust in

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2 substantive analysis, but also, parity among the
3 State agencies and also parity among the funding
4 streams.

5 Whether it's public or private in --
6 and also looking at, who are the proper people or
7 proper entities to be doing certain substantive
8 issues. And some of what NYSERDA is asking for, are
9 very new things, that no matter how much we give them
10 in terms of resources, they don't necessarily have
11 the current expertise and will then have to even
12 then, be sort of at a -- at a learning curve.

13 When perhaps, we may need to rethink,
14 what is the practical reality of that? We have an --
15 for example, an offshore wind consortium that has
16 perhaps the ability to have private dollars and
17 federal dollars be utilized to have technical
18 expertise.

19 And while NYSERDA is involved in that,
20 and D.P.S. and others are involved in that, it
21 doesn't mean that NYSERDA needs more resources to
22 then become the technical experts that they may still
23 have to rely on those same people.

24 So with all of that, it leads me back
25 to what is the proper way forward, and how can we

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2 think differently about ensuring that we are being
3 accountable to the ratepayers in our stewardship of
4 the ratepayer funding.

5 And how can we better help and manage
6 this for staff to not be put in this position, but
7 also for staff to have the resources in the oversight
8 that we as a Commission are responsible for, in
9 working through some of these challenges.

10 And I think that that requires us to
11 ask all the stakeholders, what's preventing you from
12 leaning in and what is a better way for us to do
13 this? So that we are all ensuring that we're moving
14 forward in a -- in a responsible way. And a -- our
15 fiduciary responsibility is not taken for granted.
16 So with that, I will be voting no on this item.

17 CHAIR CHRISTIAN: Thank you.
18 Commissioner Alesi?

19 COMMISSIONER ALESI: Thank you, Mr.
20 Chairman. As I see NYSERDA correctly anticipated
21 that this requested that there will be increased
22 workloads in various areas, whether it's legal,
23 management, technical, planning, et cetera.

24 CHAIR CHRISTIAN: Sorry.

25 COMMISSIONER ALESI: I'll be --.

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2 CHAIR CHRISTIAN: So sorry to
3 interrupt you, Commissioner. Would you be so kind as
4 to speak up or get a little bit closer to the mic and
5 start over? We're having a bit of trouble hearing
6 you here.

7 COMMISSIONER ALESI: I'll be
8 supporting the issue and I'll be voting yes. And I'd
9 like to thank Marco for being in the hot seat today.

10 CHAIR CHRISTIAN: Thank you.
11 Commissioner Edwards?

12 COMMISSIONER EDWARDS: Good morning.
13 Can you hear me now?

14 CHAIR CHRISTIAN: Yes.

15 COMMISSIONER EDWARDS: Okay. Good.
16 So I have a different perspective on this. I -- I
17 really believe that we as a Commission have an
18 obligation to make this work, and to make all of the
19 piece costs work and be supportive, so that we can do
20 what we need to do by 2030.

21 We codified the C.L.C.P.A. in 2016.
22 And I believe that we have to ask ourselves that who
23 will suffer the most, if this is not going to work?
24 And the answer to me would be the small businesses,
25 and the most vulnerable communities, and our future

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2 generations.

3 I was heartened to see the release
4 this morning by the D.E.C. that is trying to pull all
5 the pieces together. I would encourage all of the
6 Commissioners to read that as I did this morning.
7 You know, I look at this in -- in two fashions. You
8 know, we can cut the legs off of the pieces and
9 really make sure that this doesn't work by not giving
10 it proper funding.

11 You know, it's like buying a new car
12 but taking away the steering wheel and the engine.
13 Not having the mechanic, it's being on a school board
14 and then trying to run the district. We have -- we
15 really have to -- I believe, in my opinion, not
16 micromanage the NYSERDA leadership and the skill sets
17 that they believe need to be done. Quite frankly, I
18 would've supported this in total. Because I do think
19 it's important to have strategy and policy
20 development project managers.

21 I do think it's important to have
22 communications and technical support, and a marketing
23 manager. And I absolutely think it's important to
24 have a junior analyst so that we can mentor people
25 along the way. I think it's a leadership issue. And

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2 if -- in NYSERDA's best judgment that they believe
3 that these skill sets are important, I think that we
4 should be supportive as well.

5 However, from an overall perspective,
6 I do think that it's our obligation to work with all
7 parties and raise the flag on the overall cost of
8 doing this work; that I do believe is important. But
9 I don't think that the answer is to say no to
10 individual pieces of the work. I think that we
11 should encourage the State legislature under the
12 Governor's leadership to look at this in a holistic
13 approach and provide the funding necessary to all
14 agencies so that we can, at a macro perspective get
15 this work done.

16 We have to fully fund it so that it is
17 not on all of the ratepayers. But I do not think
18 that we should be scrutinizing individual projects
19 and voting no based on cost alone. The issue is
20 really how do we better fund the overall cost and I
21 see that the -- what was released this morning and
22 final comment is the D.E.C. piece of it.

23 I think that that is a way to -- to
24 accomplish this. It's not only funding, but it's
25 also reminding all of the agencies, including ours,

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2 that we need to assess where we are in light of the
3 climate change considerations and requirements of the
4 C.L.C.P.A. It's our obligation to do that. So I
5 think that that policy is something that we need to
6 read, and reread, and reread.

7 But I do think that the State
8 legislature, as I said before, under the Governor's
9 leadership, we need to do what we can to do from a
10 funding perspective so that we can get this over the
11 finish line. And in my opinion, we have the legal
12 and moral obligation to do so. And I will be
13 supporting this. And I would've supported it without
14 the modifications. Thank you.

15 CHAIR CHRISTIAN: Thank you.
16 Commissioner Howard?

17 COMMISSIONER HOWARD: Thank you.
18 Marco, I -- I have a few questions regarding NYSERDA
19 and I'll tie them all together at the end. Is
20 NYSERDA subject to the New York Civil Service Law?

21 MR. PADULA: No.

22 COMMISSIONER HOWARD: Is NYSERDA part
23 of the State's fiscal plan as overseen by the
24 division of the budget?

25 MR. PADULA: Are you saying, do they

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2 get any money from the budget process? And if -- if
3 that's the case, there's a small amount that they
4 received through the Public Service Law 18 A
5 surcharge dollars that are dealt with in that way.

6 COMMISSIONER HOWARD: Is that largely
7 in support of the State Energy Office Function and
8 West Valley?

9 MR. PADULA: Yes.

10 COMMISSIONER HOWARD: Is NYSERDA part
11 of any union bargaining agreement?

12 MR. PADULA: They are not.

13 COMMISSIONER HOWARD: And is NYSERDA
14 contracting and spending to New York State
15 comptroller pre-audit function?

16 MR. PADULA: When you say pre-audit,
17 there's no pre-authorization. The comptroller does
18 have oversight after the fact.

19 COMMISSIONER HOWARD: Thank you. The
20 reason I ask these questions is NYSERDA is not a
21 State agency, it's an authority. It's an authority
22 unique among authorities, in as much as that, it has
23 no assets that it derives direct revenue from. The
24 revenue either comes from the State general fund or
25 the vast majority, the vast majority comes from

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2 ratepayer dollars to pay, not only for its
3 administrative function, but also whatever contracts
4 that they sign, particularly, when it comes to
5 procurement of zero emission resources.

6 You know, NYSERDA's come a long way
7 since the 1960s, when it was designed to be an agency
8 -- an entity that would reprocess nuclear waste at
9 profit and then, spawn a brand-new industry.

10 It then morphed into an agency that
11 had to clean up the mess from the West Valley
12 reprocessing site. We used to have an independent
13 State energy office, that was eliminated. That was
14 rolled into the NYSERDA function. And again, moving
15 from a state agency direct approp -- model to
16 something else, again, I think is very important.
17 You know, and -- and many State government agencies
18 have experienced mission creep over their lives.

19 In NYSERDA's case, mission hyper creep
20 has happened, particularly since 2015. And I believe
21 that given that NYSERDA will issue hundreds of
22 billions of dollars worth of contracts as part of its
23 C.L.C.P. -- as part of the C.L.C.P.A. mandates. It
24 is time for greater oversight of NYSERDA, not just
25 from D.P.S., but I believe from the comptroller's

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2 office as well.

3 If the State legislature and the
4 public are greatly concerned about committing State -
5 - commitments made in State contracts, i e, the
6 Buffalo billion, for example, they should be equally
7 concerned for the contracts let by NYSERDA, that
8 quite honestly dwarf the Buffalo billion in their
9 size and magnitude.

10 Before this Commission -- and -- and
11 this, I guess the question is, when -- Marco, when do
12 we see a reset of -- of these programs that may
13 require additional ratepayer dollars. Is there a
14 time that we see in the future when they will come to
15 the Commission for new ratepayer dollars?

16 MR. PADULA: If you're suggesting,
17 would you see like another C.E.S. white paper that
18 you saw a couple years back. The answer is, yes,
19 probably, in another, you know, two to three years --

20 COMMISSIONER HOWARD: Okay.

21 MR. PADULA: -- where we then look to
22 the next step, how do you obtain -- how do you reach
23 the 100 by 40 and the 2050 goals as well.

24 COMMISSIONER HOWARD: Well, thank you.

25 And -- and my opinion, before this Commission is

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2 called upon to increase the cost to ratepayers, I
3 believe that real meaningful oversight needs to be in
4 place. This is -- do not interpret my statements
5 here as a criticism of NYSERDA's performance to date
6 because it is not. It is the transparency that I'm
7 worried about and concerned about.

8 You know, transparency will need
9 necessarily to be the cornerstone of any reform. And
10 particularly any reform that relates to C.L.C.P.A.
11 funding. And failure on this front will be the
12 biggest single threat, I believe, to the State's
13 decarbonization efforts. If folks don't believe in
14 it and don't believe that we are spending wisely and
15 that they're fully informed about how it is, they
16 will react and they'll react negatively.

17 That being said, I do want to praise
18 the work of D.P.S. staff on their sharpened pencil
19 here, wouldn't where, you know, and I think it's very
20 important that we state here, we are the fiduciary
21 body that oversees NYSERDA. It's not the State
22 legislature, it's not the division of budget, it's
23 not the comptroller, it's us.

24 And with that responsibility, there's
25 a reason we have a division of budget. There's a

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2 reason we have a complex comptroller's office.
3 There's a reason we have a civil service law.
4 There's a reason we have broad State procurement and
5 contracting regulations. It's pre -- to preserve the
6 respect for the public's money. And it -- to my
7 mind, it doesn't matter if the money comes from the
8 public via the tax man or through this Commission's
9 ability to raise money through people's utilities
10 bills. It's all the same money.

11 So again, I do want to praise you for
12 the work you've done. I do want to make sure that we
13 can move this process forward and that these
14 positions to the extent that they are necessary to do
15 that. However, this we need to change. We need to
16 change and we need to let everybody know what's
17 happening because failure to do that, I believe, will
18 result in some very negative consequences.

19 With that being said, however, the --
20 this order doesn't require any new ratepayer dollars.
21 I actually will be supporting it. However, anything
22 that going forward, that puts our hands into
23 ratepayers' pocket for this or any other expense,
24 either born directly by utilities or by NYSERDA, I
25 believe will receive much higher scrutiny than we

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2 have today.

3 But that being said, thank you, Marco
4 and thank you Tom for your -- for your work.

5 CHAIR CHRISTIAN: Thank you.
6 Commissioner Valesky?

7 COMMISSIONER VALESKY: Thank you, Mr.
8 Chair. Let me just first start by acknowledging the
9 comments that all the Commissioners who have spoken
10 already have -- have added to the record. I think
11 it's all very helpful. And particularly, you know,
12 historical lessons are important.

13 Whether it be the history of the clean
14 energy standard as -- as described by Commissioner
15 Burman or in many ways the history of NYSERDA itself,
16 or at least going back to the 1990s, at -- at that
17 point in time when the then State Energy Office was
18 folded into NYSERDA as Commissioner Howard briefly
19 mentioned earlier.

20 I think that's all extremely helpful
21 as we consider items that come before us.
22 Specifically, as to the petition in front of us
23 today, I just wanted to share and Marco, in thanking
24 you for the work that you and your staff did with
25 those pencils that were sharpened. I just want to

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2 share a line that I think summarizes my perspective
3 quite well, talking about surplus funds that are used
4 to carry out the administrative cost of the 2023
5 program.

6 And then you go on to say that the
7 requested positions and technical support additions
8 must be carefully considered from a need perspective
9 and many have spoken about that earlier. And
10 conservatively balanced against current ratepayer
11 obligations, including rising electricity costs.
12 Including rising electricity costs.

13 We're two or three months in from our
14 own internal winter forecast about rising electricity
15 cost. We're all seeing rising electricity costs in
16 our monthly bills as we speak. So again, I just want
17 you to know, how much I appreciate that -- that you
18 have incorporated the current burdens on electric
19 ratepayers in your review and modification of this
20 petition and I will be supporting it. Thank you.

21 CHAIR CHRISTIAN: Thank you.
22 Commissioner Maggiore?

23 COMMISSIONER MAGGIORE: Thank you.
24 First of all, as my colleagues have said good work
25 Marco and Tom. I have two questions then I'm going

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2 to make a couple of comments on my vote. The first
3 question is this, in broad terms, how are we doing on
4 meeting the goals established in the Clean Energy
5 Standard order the 55 by 30 and the zero by 40. And
6 how was NYSERDA doing in advancing our progress
7 towards those goals?

8 MR. PADULA: I can take that. So
9 Commissioner Maggiore, if you look at the current
10 renewable projects that are under construction, or
11 have been awarded contract, or that have been built,
12 NYSERDA is -- is reporting right on their website.
13 You can -- everybody can see it, that -- that they're
14 at 66% of the -- of the 70 by 30 goal.

15 So they're at 66% right now, with
16 that. So I would say, overall, they're doing --
17 they're -- they're meeting the objectives that the
18 Commission has laid out. They are in -- in the pro -
19 - on -- on the path to meeting the ultimate
20 objectives.

21 COMMISSIONER MAGGIORE: Okay. Thank
22 you. My second question is, you know, the -- the
23 proposed increase at around 30%. Should we be
24 surprised at an increase of this magnitude or should
25 we have seen it coming and looking forward, should we

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2 be expecting similar increase the next funding round?

3 MR. PADULA: So I -- I don't think it
4 comes as a surprise, given that -- if you look at the
5 -- the goals as -- as we -- as you stated the 70 by
6 30 and 100 by 40, as well as the goals of the
7 offshore wind requirement of 9,000 megawatts by 2025.

8 You know, NYSERDA has, for the last
9 six years, for example, done annual procurements for
10 the Tier 1 resources, and they're on their third
11 procurement for offshore wind. So the offshore wind
12 procurement is on the street today.

13 There's the 6th Tier 1 procurement
14 that's on the street. And those things -- those --
15 those bids will come back, the analysis, you know,
16 tremendous amount of analysis is -- is done on those
17 -- those -- those, you know, responses to the R.F.P.s
18 that come back. And that's expected to happen next
19 year.

20 In addition, you know, they are
21 thinking about what is the next offshore wind
22 procurement. What will that look like and what --
23 what will the next tier -- Tier 1 procurement look
24 like? So it -- I would say it -- it was expected in
25 terms of would this level of request be something

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2 that we should see year to year? I don't -- I don't
3 think so.

4 I don't think we'll see a -- a 30, you
5 know, a 33% increase in admin for the subsequent
6 year. You know, maybe there will be some gradual
7 increase as we continue to work toward the 2040
8 timeframe. But as far as year to year increases of
9 30%, I wouldn't expect that. Year over year, in the
10 short term.

11 COMMISSIONER MAGGIORE: Okay. Thank
12 you -- thank you very much. I'm just going to add a
13 couple comments and I appreciate both the answers.
14 The -- as I'm sitting here listening to my
15 colleagues, I am mindful with a lot of what I'm
16 hearing. And that many of my colleagues express
17 concerns or -- or -- or thoughts that I had much
18 better than I could express myself. I am -- I am
19 going to vote yes on this.

20 And I -- I would like to say sort of
21 broadly, what I'm nodding along with is the idea that
22 we ostensibly we could enhance our oversight
23 function, could only help NYSERDA doing the tasks
24 that were assigned to them by that 2016 order. And I
25 went back and looked at that 2016 order, which is

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2 referenced in the present order, because it really
3 sort of establishes why we're doing this in the first
4 place.

5 And the role of NYSERDA is really
6 highlighted. And NYSERDA has mentioned over 170
7 times in that order. And the -- the -- the summary
8 that of -- of what NYSERDA has asked to do that is in
9 this order, almost by any standard understates the
10 responsibility that that order has placed on NYSERDA.
11 That order also references several of what at the
12 time were recent extreme weather events that had
13 battered New York State, by that refreshing people's
14 minds back in 2016.

15 And I, you know, this order doesn't so
16 much do that, but if we wanted to or we could have
17 come up with a whole new list of extreme weather
18 events that happened just since that time. I grew up
19 in Buffalo and just last month, there was the second
20 6-foot snowstorm in the last 8 years.

21 The first 45 years of my life, even
22 living through the blizzard of '77 and the ice storm
23 of '85, we never experienced anything like that. And
24 so the -- the importance of what we're doing is no
25 less diminished than it was in 2016. So I'm going to

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2 support this.

3 I -- I -- I do want to emphasize that
4 I think some of the concerns raised today should not
5 be more and I broadly am glad that others raised
6 them, but nonetheless, I think the importance of --
7 of moving forward is -- is paramount in my mind.

8 We have seven years to achieve that --
9 that 55 by 30 goal. And I -- I am looking forward to
10 -- to continue the good work of NYSERDA and the folks
11 at D.P.S. in providing an oversight function, the
12 extent to which it could be enhanced, I think will
13 only help us achieve our goals. Thank you very much.

14 CHAIR CHRISTIAN: Thank you. So I'll
15 now do a call for a vote. My vote is in favor of the
16 recommendations to approve the 2023 Clean Energy
17 Standard administrative funding with modifications as
18 discussed. Commissioner Burman, how do you vote?

19 COMMISSIONER BURMAN: No.

20 CHAIR CHRISTIAN: Commissioner Alesi?

21 COMMISSIONER ALESI: Yes.

22 CHAIR CHRISTIAN: Commissioner

23 Edwards?

24 COMMISSIONER EDWARDS: Yes.

25 CHAIR CHRISTIAN: Commissioner Howard?

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2 COMMISSIONER HOWARD: Yes.

3 CHAIR CHRISTIAN: Commissioner

4 Valesky?

5 COMMISSIONER VALESKY: Yes.

6 CHAIR CHRISTIAN: Commissioner

7 Maggiore?

8 COMMISSIONER MAGGIORE: Yes.

9 CHAIR CHRISTIAN: Thank you. The item
10 is approved and recommendations adopted. Thank you,
11 everyone.

12 We'll now move to our third item for
13 discussion today, Item 302, Case 20-E-0197 as it
14 relates to the request of New York State Electric and
15 Gas Corporation for authorization to develop Phase 1
16 local transmission projects. That will be presented
17 today by Elizabeth Grisaru.

18 Brandon Goodrich and Jerry Ancona are
19 available for questions. Ms. Grisaru, please begin.

20 MS. GRISARU: Good afternoon, Chair,
21 and Commissioners, I'm very, very happy to be here
22 with you to talk about these important local
23 transmission projects. However, before we dive in, I
24 think I'd like to take a minute to provide some
25 background that I hope will be helpful in -- in

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2 looking at these projects.

3 This petition that's before you today
4 seeks approval for the company to continue spending
5 on developing a group of local transmission projects
6 that the company asserts will be critical to
7 supporting the State's objectives for new renewable
8 generation.

9 The petition response comes directly
10 out of decisions that the Commission made in February
11 of 2021 in this same proceeding in the order that we
12 refer to as the Phase 1 order. There the Commission
13 recognize that some traditional utility investments
14 in reliability and resilience of the transmission
15 system could also have ancillary benefits in terms of
16 creating additional headroom for renewable generation
17 resources.

18 The Commission defined this type of
19 project as Phase 1 and instructed the utilities to
20 identify projects with these characteristics in the
21 rate cases going forward. Thus, the Phase 1 order
22 and the Phase 1 designation enable the Commission to
23 see what projects in a utility's capital plan have
24 headroom benefits and to prioritize those where it
25 might make sense to do so in the overall context of

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2 the rate case.

3 At the same time, in the Phase 1 order
4 the Commission acknowledged that the State's climate
5 goals codified in the Climate Leadership and
6 Community Protection Act might require action sooner
7 than the rate case cycle would permit.

8 Therefore, the Phase 1 order
9 authorized utilities to bring Phase 1 proposals
10 forward via petitions in the circumstances where
11 waiting for a rate case would jeopardize C.L.C.P.A.
12 deadlines. The safety valve allows the Commission to
13 take action off cycle where the C.L.C.P.A. benefits
14 associated with the reliability project are needed in
15 the short term.

16 NYSEG filed its petition in December
17 of 2021 and identified at that time 23 projects for
18 consideration under the off-cycle approach
19 established in the Phase 1 order. NYSEG explained
20 that the projects were developed through the
21 company's routine reliability and asset maintenance
22 planning studies and also showed how they would
23 contribute to C.L.C.P.A. goals by increasing headroom
24 on the company's system.

25 Several months later, the company

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2 filed a rate proceeding which is ongoing at the
3 present time. The same 23 local transmission
4 projects are included in the rate filing with other
5 proposed investments. Before you today is the narrow
6 question of whether to approve the continuing
7 development expenditure that NYSEG says is necessary
8 to keep the projects on track to meet C.L.C.P.A.
9 deadlines.

10 While the overall capital investment
11 issues are being addressed in the rate case. Staff
12 recommends that you approve development funding
13 through the conclusion of the rate case subject to an
14 overall cap on the expenditure.

15 Staff has looked closely at the
16 proposals and focused on specifically identifying
17 those elements of the projects that will actually
18 contribute to headroom and therefore support the
19 C.L.C.P.A. targets.

20 Staff's analysis broke down the 23
21 projects as NYSEG originally described them into 46
22 components for the purpose of conducting a more
23 granular review and concluded that 27 of the re-
24 categorized elements do qualify as Phase 1 projects
25 within the scope and intent of the Phase 1 order.

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2 Staff also concluded that continued
3 funding of these 27 component projects is necessary
4 to ensure that they can be brought into service in
5 time to support our 2030 C.L.C.P.A. targets. Thus,
6 the draft order before you authorizes spending for
7 these projects up to a cap of \$98.8 million through
8 the end of NYSEG's current rate year.

9 The other 19 components will be
10 addressed with other reliability projects in the rate
11 case. A determination here to approve the continued
12 development of these projects while the rate case is
13 pending, addresses the risk that would otherwise
14 arise if you defer the decision to that other
15 proceeding.

16 As the Commission found in the Phase 1
17 order, it is appropriate to address C.L.C.P.A. needs
18 outside the rate case context when statutory
19 deadlines might otherwise be missed. The draft order
20 before you today protects against that risk and
21 increases the likelihood that the transmission
22 infrastructure needed to support our climate goals
23 will be in place on time. Thank you, and we are
24 happy to answer your questions.

25 CHAIR CHRISTIAN: Thank you. If you

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2 don't -- I'm going to start off with a question or
3 two, I think you use the term headroom several times
4 in your presentation. And I -- I think it'd be
5 helpful if you could explain that for those listening
6 in --

7 MS. GRISARU: I -- I --

8 CHAIR CHRISTIAN: -- who might not be
9 familiar with it.

10 MS. GRISARU: -- would be happy to
11 provide a layperson's explanation and -- but my -- my
12 terrific colleague, Jerry Ancona can give you a more
13 technical explanation.

14 CHAIR CHRISTIAN: Thank you for that.
15 Jerry, please?

16 MR. ANCONA: Headroom is basically the
17 ability for a renewable generator or any generator to
18 what -- to have its output delivered to load. So it
19 can then, so in -- a generator can basically serve
20 local load because they're very close, there are no
21 impediments between them.

22 But to the extent that local load is
23 much lower than the generator's output, the -- the
24 power needs to -- to -- to go outside the region and
25 that's where headroom then comes up. If we have --

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2 if the transmission -- the system has enough
3 capability to export that generator, that it has
4 sufficient headroom.

5 So in a nutshell, headroom is the
6 ability for a generator to deliver its output to load
7 without the restriction. Does that answer the --?

8 CHAIR CHRISTIAN: Yeah, I'm going to -
9 - I'm going to -- I'm going to say what I heard.

10 MR. ANCONA: Yes.

11 CHAIR CHRISTIAN: So in these areas
12 right now, we can't add additional generation because
13 there's insufficient headroom. Is that what you
14 mean? We can't build new generation, we can't build
15 new renewables in these areas where these projects
16 are being placed?

17 MR. ANCONA: Yeah, these areas can
18 handle a certain amount of generation but -- but yet,
19 they're -- the existing -- the -- the system the
20 results in the curtailment of some of the renewable.

21 CHAIR CHRISTIAN: So we can --

22 MR. ANCONA: Yes.

23 CHAIR CHRISTIAN: -- get more power
24 from whatever renewable we could build?

25 MR. ANCONAL: Yes. So if you upgrade

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2 --

3 CHAIR CHRISTIAN: Okay.

4 MR. ANCONA: -- the -- the
5 transmission you can get more -- more renewable --
6 the generation delivery to external loads farther
7 away.

8 CHAIR CHRISTIAN: Got it, okay. And I
9 know one -- it's a follow up question both to you,
10 Jerry, or Elizabeth. Within the order, there's a
11 list of the amount of headroom that's created, right.
12 So this -- this means additional generation could be
13 built up to that amount in these respective areas.

14 And I think the areas in question were
15 Lancaster, Lockport, Ithaca, Binghamton, and Oneonta,
16 is that -- is that right?

17 MR. ANCONA: Yes.

18 MS. GRISARU: That sounds right, yeah.

19 MR. ANCONA: Yes.

20 CHAIR CHRISTIAN: Okay, great. Thank
21 you. I just wanted to make sure it's clear. Great.

22 MS. GRISARU: Yeah.

23 CHAIR CHRISTIAN: So, you know, again,
24 thank you for the presentation, thank you for taking
25 time to answer my questions. You know, I -- I think

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2 back to when the Accelerated Renewable Energy Growth
3 and Community Benefit Act was passed, you know, the
4 Commission at the time, was directed by the
5 legislature in partnership with our sister agencies
6 in the New York ISO, to identify these upgrades, to
7 identify the cost effectiveness of these upgrades,
8 and the suitability of them in meeting our State's
9 renewable energy goals.

10 But the prime driver, I want to be
11 clear on these is reliability, that's the initial
12 screen. We're here today to talk about a reliability
13 need that happens to also coincide with meeting and
14 supporting a C.L.C.P.A. need.

15 So ultimately, these are projects that
16 we would be looking at and we're looking at out of
17 turn out of the rate case in part because a direction
18 from the legislature to do so given the expediency
19 and the need to meet the goals of the C.L.C.P.A.

20 So to reiterate what you said the
21 order before us today covers \$98 million of
22 investments?

23 MS. GRISARU: I think 98.8, but yes.

24 CHAIR CHRISTIAN: Okay. I'll round up
25 next time, thank you. So \$98.8 million in

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2 investments for the current rate year, so that's the
3 next few months. Is that right?

4 MS. GRISARU: That's through I
5 believe, end of May 2023.

6 CHAIR CHRISTIAN: End of May, thank
7 you for that.

8 MR. ANCONA: End of April.

9 MS. GRISARU: Oh, sorry --

10 MR. ANCONA: End of April.

11 MS. GRISARU: -- correction, April 31,
12 end of April.

13 CHAIR CHRISTIAN: April 31st --

14 MS. GRISARU: Correct.

15 CHAIR CHRISTIAN: -- 2023. Great,
16 thank you.

17 MR. ANCONA: That's assuming that the
18 rate case is approved by April, by the end of April,
19 so -- so the rate case would take over.

20 CHAIR CHRISTIAN: Got it, okay. And
21 now memory serves, this is now the second time we'll
22 be moving forward with this, the first time being the
23 National Grid order, which we did a few months ago
24 for \$700 million and moved forward with. Is that
25 right?

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2 MS. GRISARU: That's correct. This --
3 the NYSEG's petition is the second petition seeking
4 interim funding for Phase 1 projects, National Grid
5 came first.

6 CHAIR CHRISTIAN: Got it, okay. So
7 thank you for that clarification. So -- again, I
8 appreciate the detail in going through this and the
9 various projects that have come before us, you know,
10 I like the fact that these projects are going to
11 increase reliability and also provide economic
12 development opportunities in the communities I
13 mentioned earlier.

14 And it's helpful to know that these
15 projects are con -- contributing in such a way that
16 this near term action is going to offer opportunities
17 to enhance and improve service to customers and move
18 us closer to meeting our State required goals.

19 So I appreciate your work on putting
20 this together and I will be supporting this item.
21 Now go to Commissioner Burman.

22 COMMISSIONER BURMAN: Thank you so
23 much. Thanks for staff's clear hard work on this.
24 It's important for me to underscore that I believe
25 that the threshold issue in all that we're doing in

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2 the clean energy space is that reliability is
3 paramount.

4 I think that that has to be clearly
5 documented in a way that makes sure that we are doing
6 all we can in that regard. That means that when we
7 are in any arena where we're talking about our clean
8 energy goals, the C.L.C.P.A. and implementation of
9 that, we must make sure that the threshold issue of
10 reliability is clearly understood.

11 Sadly, in many arenas that I've been
12 in recently that has not been understood. And it
13 seems that that is something that weighs heavily on
14 me and I think the others who I think understand the
15 importance of that issue of reliability; it's a
16 threshold issue.

17 If we allow reliability to be at risk,
18 we are putting at risk our clean energy goals.
19 However, I don't believe that if I vote no on this
20 item, that I am putting at risk reliability. In
21 fact, I think that I am being properly cognizant of
22 the reliability issues and the role that we play and
23 the place that the decisions get in terms of the
24 dollars allocated to certain utility projects need to
25 be done mindfully in appropriate other arenas,

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2 irrespective of whether or not we have already
3 decided in the National Grid.

4 I'm going to kind of go through this
5 in a way that explains where I'm coming from and is
6 showcasing I think, an alternative approach that,
7 frankly, I think, is the proper and prudent approach.
8 We have to, as the Commission, we have to follow
9 legislative directives, we have to implement them.

10 But we are not just a okay, this is a
11 legislative directive and this is how we're going to
12 do it. We have to think carefully, we have to
13 understand it, we have to look to careful
14 implementation. And as we go along, if we see that
15 there are challenges to the way we envision that
16 implementation, we have to be willing to say, not
17 necessarily the best approach now in light of what
18 we're seeing.

19 So perhaps we need to make some
20 modifications even if it is to our prior orders in a
21 way that allows the proper input and process and
22 engagement from other stakeholders. So we have as
23 the Chair noted, the Accelerated Renewable Energy
24 Growth and Community Benefit Act which required --
25 requires the Commission to among other things, look

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2 at how to do transmission planning and investment
3 differently towards the achievement of the targets
4 established by the C.L.C.P.A, that's clear.

5 And so part of our challenge in then
6 taking that legislative directive and implementing
7 it, we did through the Phase 1 order, February 11, of
8 2021. And the Commission issued an order, I voted
9 for it.

10 In -- in this Phase 1 order, it among
11 other things really looked at a distinction between
12 Phase 1 and Phase 2 projects and provided guidance,
13 specifically on the process for cost recovery of
14 Phase 1 projects.

15 The other things it did, but primarily
16 this Phase 1 order was a significant policy
17 implementation guidance document. We provided that
18 guidance on a process for receiving cost recovery for
19 the implementation of Phase 1, local T and D projects
20 that the utilities say can support the State's
21 achievements of C.L.C.P.A. targets, I underscore that
22 that the utilities say.

23 We adopted the utilities' definition,
24 which indicated that Phase 1 projects are those that
25 addressed traditional reliability, safety, and

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2 compliance purposes. And it also happens to
3 simultaneously, they believe, support renewable
4 generation needs and C.L.C.P.A. targets.

5 So essentially, in other words,
6 without modifying anything about their new projects,
7 progress towards the State goals can be met through
8 this project development.

9 Now, the joint utilities report that
10 was the basis for our Commission order in this
11 proceeding explained that Phase 1 projects are those
12 that would be completed under traditional T and D
13 planning processes as they impact the utilities
14 obligation to provide safe, reliable, and cost
15 effective service.

16 As far as the utilities were concerned
17 and as far as our order adopting that was concerned,
18 there was nothing new, unique, or special about these
19 projects in the context of their overall capital
20 budgets and plans.

21 We envisioned and contemplated perhaps
22 an acceleration of plans where it made sense. We
23 look to, that the best way was to do it in a rate
24 case, but we understood that we might need to
25 accelerate if it made sense.

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2 And essentially where the utilities'
3 rate case filing was quite a ways away. Now, after
4 we did Phase 1, we saw National Grid submit a Phase 1
5 petition and that was before us, I voted no for it on
6 that. But in that my rationale for voting no was
7 specific on a sort of case by case basis to that
8 particular petition.

9 So because I voted no on that doesn't
10 mean I'm voting no on the next petition that comes
11 before. And I looked at that and what concerned me
12 was that we had just recently adopted the joint
13 proposal that had been done through the National Grid
14 rate case.

15 And I was concerned that by now, all
16 of a sudden now, very shortly after deciding Phase 1,
17 that in a sense we were modifying the joint proposal
18 outside of the rate case context. And my concern
19 went really sort of at the heart of why the Phase 1
20 order preferred it being done in a rate case,
21 understanding that we may have to accelerate.

22 So we in that case, by doing it the
23 way we were doing and deciding National Grid's Phase
24 1 and approving them allows the project and this is
25 what I stated at -- at session last time to point the

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2 company's next rate filing.

3 Literally what happens is that we are
4 looking at a higher base rate coming in. That
5 concerned me, that concern me that they -- it's
6 essentially rolling into the ba -- base rate in the
7 next rate case subject to prudence review.

8 And from my perspective, it also, the
9 bigger concern I had and that I stated was that the
10 project's -- how the project's impact the capital
11 project plans had just been approved in the joint
12 proposal. And had these projects been considered
13 during that 12 months that the rate case was under
14 consideration by the active parties.

15 The -- and by the A.L.J. and it came
16 before us, the priorities for those projects included
17 in the joint proposal may have been different and
18 have resulted in some projects not being pursued at
19 that time. And so I had real concerns about how
20 rigorous our accounting for National Grid's projects
21 will be kept separate from the accounting for the
22 rate case projects.

23 And truly, if not done right can have
24 detrimental results on the ratepayers. And as an
25 example, I stated that the rate case requires a

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2 reconciliation and repayment to customers of any
3 unspent capital project funds over the three years of
4 the rate plan.

5 And so I wasn't sure how the
6 Commission would be able to determine whether
7 expenses for the Phase 1 projects might be used to
8 ensure that the company hits a three-year expenditure
9 target and that would deprive customers what
10 otherwise could have been an I.O.U.

11 So that due diligence review or lack
12 thereof concerned me and so I voted no. Now -- now
13 we have before us this Phase 1 petition, and I'm
14 mindful of that there is some contrast and difference
15 between the National Grid Phase 1 petition and here.

16 That filing by National Grid was made
17 at the end of a rate proceeding over projects that
18 hadn't been part of the rate filing. If the
19 Commission had waited, no action would have been
20 taken on those proposals in Phase 1 for many years,
21 which gets to -- back to the Phase 1 order.

22 In a sense, even though I voted no
23 it's harder for me to vote yes here than it was
24 there. Why? Because at least that petition fit
25 within the logic of the February 2021 order scheme

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2 and made logical sense in that framework, because it
3 was focused on need -- perhaps needing to accelerate
4 if there's -- if we're having to wait so long for a
5 rate case.

6 Here, the time between NYSEG's Phase 1
7 petition and its rate case filing that includes all
8 these projects under consideration today was only
9 five months, not even half a year. This isn't just
10 my opinion, the draft order that's before us talks
11 about the timing of these filings and says that the -
12 - that this is a parallel process, a circumstance we
13 did not envision in the Phase 1 order.

14 We did not envision it and I hearken
15 to bet that if we had envisioned it we would have
16 said that they were not allowed to proceed
17 separately. If you were going to only, a short few
18 months later file a rate case filing, it should be
19 decided in that.

20 And it's currently in the middle of
21 settlement discussions. We as Commissioners have no
22 idea the discussions around what's happening in the
23 settlement discussions, nor should we. However, we
24 are independently weighing in implicitly on the very
25 thing that should be part of that rate case. That is

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2 truly troubling to me.

3 MS. GRISARU: Commissioner, if I could
4 just jump in really briefly, to put some context
5 around the genesis of the Phase 1 order and the --
6 the problems that you're alluding to that is the
7 proximity, or lack of proximity to the rate case.

8 And that is that, at the time of the
9 Phase 1 order in February 2021, no utilities rate --
10 no utilities' rates included Phase 1 projects,
11 because the idea of a Phase 1 project did not exist
12 in the preceding years when the utilities presented
13 their capital programs to this Commission.

14 So the -- the intent of the -- of --
15 of the Commission creating the mechanism and the
16 Commission weighed some of the same considerations
17 you're -- you're talking about now, in -- in -- in --
18 in -- in that Phase 1 order, the intent of that
19 mechanism was to recognize one, utilities do not have
20 funding for these projects in their current rate
21 plans, and two, C.L.C.P.A. deadlines require action
22 outside of the rate cycle.

23 So if there were another mechanism to
24 achieve that objective, I think we -- we looked -- we
25 looked and looked and we -- staff concluded and

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2 recommended and this Commission adopted both the
3 concept of the Phase 1 and the -- the box, the
4 circumstances under which a utility would be
5 permitted to bring Phase 1 projects forward after
6 February of 2021.

7 So I just want to -- I just want to
8 read --

9 COMMISSIONER BURMAN: I very much
10 understand.

11 MS. GRISARU: -- remind the Commission
12 that this category did not exist prior to February
13 and so no one's rates included Phase 1 projects at
14 that time.

15 COMMISSIONER BURMAN: Absolutely 100%
16 understand. The irony of it all, though, is that the
17 Phase 1 order and my no vote in National Grid and now
18 here is actually aligned. It's okay to say put
19 forward petitions, perhaps that you think should be
20 for Phase 1.

21 We don't have to then say you put
22 forward a petition for Phase 1 so we've got to
23 approve at least some of it. No, we can say, what is
24 the appropriate mechanism for deciding these
25 projects? When they put forward the Phase 1 petition

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2 in December of 2021, a few short months later, they
3 brought forward the rate case and put the same
4 petitions in there.

5 Now, do I fault the company for doing
6 that? Absolutely not. They've had previous issues
7 where we've told them, put the A.M.I. stuff in a rate
8 case, take it out of the rate case, put it back in
9 the rate case and this is this dance, right.

10 But it's our obligation to determine
11 what's the right bucket. We have this Phase 1 order,
12 we're looking at it and we're also saying it's most
13 appropriate to the extent we can to decide these
14 things in the rate case.

15 If there are things that are -- we
16 need to accelerate because we can't do it in the rate
17 case, then we should have the Phase 1 petition and
18 then look at that. There's nothing -- this -- this -
19 - this is a -- is a misnomer that somehow by us
20 waiting a few short months now for the rate case,
21 that somehow that is going to be a risk factor that's
22 going to put everything in -- in chaos and we have to
23 decide these Phase 1s.

24 And I'm cognizant of the fact that
25 there is already an ongoing settlement discussion

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2 over the rate case. So this action today would only
3 apply for the next four-and-a-half months. Even if
4 we take advantage of the extension of the suspension
5 period that we did last month in the rate case.

6 The rate year starts May 1st, because
7 of the inclusion of our make whole provision. So
8 waiting four or five months to make a decision in the
9 context of the entirety of the proposed capital
10 budget for the next one or more rate years, that's
11 the appropriate thing to do, rather than baking in
12 now some portion of these proposed expenses, it
13 doesn't make sense, it's illogical.

14 And to the extent that the draft says
15 that we're not pre-judging the rate case with regard
16 to these projects. If you vote yes, you are pre-
17 judging, even if you don't mean it because it -- I
18 don't see how the justification today for approving
19 them here is subject to change in the next few
20 months, where testimony has been fully filed and the
21 parties are in settlement negotiations.

22 And if these projects are somehow left
23 out of that settlement, then that's even more of a
24 reason that we should not approve this today
25 regardless of the size of those costs relative to the

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2 company's entire proposed capital budget.

3 After today's action, if we approve
4 this, why would any party even try to challenge the
5 projects we just approved here even if we can
6 theoretically revoke further approval five or six
7 months from now, it would make no sense.

8 The -- the certainty that we're giving
9 is not a certainty, it actually messes up the
10 certainty in the discussions that are already going
11 on. And it messes up the certainty in the very
12 things that I had concern with going back to the
13 National Grid Phase 1, where I said, if we do this
14 outside of the rate case, there's confusion on how to
15 -- how to look at it, how to account for it, how to
16 keep it separate.

17 But also we're just pushing it almost
18 to the head to say, here you go on a silver platter,
19 this is what we believe. And so we must at least
20 take ownership of the fact that we are then putting
21 that into the rate discussions and rate settlement in
22 a way that may actually harm the ongoing settlement
23 negotiations.

24 Now, to the extent that we're being
25 advised to act now, because the company may have

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2 paused activity on developing these projects, given
3 the definition of a Phase 1 project, let me remind
4 everyone, it's that it's necessary for traditional
5 reliability and safety.

6 If the company is pausing it I have a
7 real problem with that action in that it seems to
8 have been done solely to wait and see what decision
9 is made here and how much pre-new-rate-year money we
10 allow them to spend that they will have a practical
11 guarantee of future cost recovery.

12 If these projects are really needed
13 now for reliability and safety so much so that the
14 company has started activity on developing these
15 projects and now are pausing it. Well, I question
16 that and why the activity would pause if the result
17 is then to push off reliability and safety
18 improvements, we should not allow that.

19 Finally, I want to point out one other
20 thing in the draft order on page 10 and 11. The
21 draft order language says, we emphasize that nothing
22 in this order is intended to prejudge the outcome of
23 any issue raised in the 2022 rate case, including the
24 prudence of any of the company's proposed capital
25 invents -- investments. Let me underscore that,

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2 including the prudence of any of the company's
3 proposed capital investments.

4 Now, I already spoke about why I think
5 it is prejudging if we -- on the outcome of the
6 projects, however, what struck me is the language,
7 including the prudence of any of the company's
8 proposed capital investments.

9 Why is this concerning to me? For
10 prudence, of course, it doesn't pre-judge issues in
11 the rate case. To be clear, no approval of utility
12 forward looking capital budgets in rate cases ever
13 forecloses a later prudence review.

14 Commission approval can obviously be
15 evidence of why a company undertook a project, but
16 the prudence of any actual work done and expenses
17 incurred can only be determined after those actions
18 have taken place.

19 We look back at what was done and
20 alone judge in the context of the action of the time
21 those actions were taken, it cannot be pre-judged to
22 be prudent. So I am concerned that this order
23 language gives a mistaken impression of the
24 understanding of how prudence review actually works.

25 And we need to make that clear,

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2 because we cannot have that be mistaken, it's too
3 important on our prudence review. So with all of
4 that, I'm going to be voting no. However, I want to
5 be clear, I do not believe reliability as is at risk,
6 I believe strongly that it's actually more prudent
7 for us and more appropriate for us to do it within
8 the rate case context.

9 And I think that it does not -- the
10 delay is not something that we should think this is a
11 horrible thing, it's going to delay. I -- I don't --
12 I don't buy that and in fact, we have had other cases
13 where utilities have told us it's going to take X
14 amount of time and we say, really, let's get under
15 the hood and see how much -- how much time is this
16 going to take.

17 So I don't see this as justification
18 for our Phase 1, which has the two prongs,
19 reliability and C.L.C.P.A. deadlines. I think if we
20 do this through the rate case, we're in good
21 standing, there's nothing from a fiduciary
22 responsibility that -- that delay -- that causes any
23 harm here.

24 And in fact, we would be doing, I
25 think the appropriate thing in setting the standard

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2 of what we determined in the rate case. So with that
3 I'm going to be voting no. Thank you.

4 CHAIR CHRISTIAN: Thank you.
5 Commissioner --.

6 MS. GRISARU: If I could, Chair,
7 respond just to one -- one thing that the
8 Commissioner alluded to, and that is that the -- how
9 much time do we have left to the 2030 deadlines. And
10 what I -- what I want to say about that is that the
11 information we have in the record tells us that we
12 can't wait for the end of April or the end of May for
13 the resolution of the rate case.

14 The information that we have in the
15 record tells us that further delay puts this group of
16 projects -- puts the schedule for these projects at
17 risk. And given that that is the information that we
18 have in the record, staff's recommendation boils down
19 to -- boils down to prioritizing these projects among
20 the many, many reliability based projects that are
21 part of that rate case.

22 Because the only information we have
23 tells us that we are in those exigent circumstances
24 that were contemplated in the Phase 1 order, where
25 further delay, waiting through the end of the rate

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2 case jeopardizes progress on this specific group and
3 knocks them off the -- knocks them off the railroad
4 for being in service in time to meet this
5 Commission's statutory obligations, to develop
6 infrastructure to meet C.L.C.P.A. so I just wanted to
7 mention that.

8 CHAIR CHRISTIAN: Thank you, Ms.
9 Grisaru.

10 COMMISSIONER BURMAN: I have to
11 respond to -- the reality is, Chair, that I didn't
12 ask a question. I stated my position and I
13 understand that you are helping to clarify. No, the
14 Commission deliberation is important.

15 And for me, I'm very clear on what's
16 in the record and what's not in the record. I
17 believe strongly that what's in the record saying
18 there may be a delay is actually not accurate when we
19 didn't get under the hood. We didn't ask them to
20 look at that more carefully, we did no deep analysis
21 on that.

22 Other -- everything else that I said,
23 factually and legally is correct. I'm very, very,
24 very comfortable with looking at this from where I
25 sit and saying the appropriate venue here is the rate

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2 case, and it's not putting at jeopardy, we're not
3 hearing it's putting at jeopardy reliability.

4 And we're not hearing that it's
5 putting at jeopardy meeting our obligations and the
6 make whole provisions are already there. So waiting
7 a few months to decide the rate case where there's
8 already ongoing settlement discussions does not by my
9 voting no put anything at risk.

10 And in fact, we can be very much
11 mindful of the fact that we want to help ensure that
12 we're doing the right thing, both from a fiduciary
13 responsibility, from reliability responsibility and
14 for making sure that projects get done.

15 Doing this today doesn't speed up or
16 accelerate anything, in fact, it may cause more
17 difficulties as we look to what this means in the
18 rate case. And so for that, I think the appropriate
19 venue is the rate case. I'm still going to be voting
20 no, but thank you.

21 CHAIR CHRISTIAN: Thank you for the
22 healthy discussion. We'll move on to Commissioner
23 Alesi.

24 COMMISSIONER ALESI: Thank you, Mr.
25 Chairman. I am satisfied that NYSEG has made a solid

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2 case to continue these Phase 1 expenditures that are
3 essential to keeping important projects on a path
4 forward, meet the C.L.C.P.A. deadline, I'll be voting
5 yes.

6 CHAIR CHRISTIAN: Thank you.
7 Commissioner Edwards?

8 COMMISSIONER EDWARDS: I do not have
9 any questions, I'll be voting yes. Thank you.

10 CHAIR CHRISTIAN: Thank you.
11 Commissioner Howard?

12 COMMISSIONER HOWARD: Thank you, Mr.
13 Chairman. Liz, if the \$1.2 billion, a little less
14 than that, is ultimately ruled prudent in the rate
15 case, what does that do to NYSEG's revenue
16 requirement?

17 MS. GRISARU: I can attempt an answer
18 to that question. I think if -- if we have to get
19 into details, I may call on a colleague. First --
20 first thing to mention is that the, you know, the --
21 these -- these or any capital transmission project
22 expenses don't go into rates until the facilities are
23 in service.

24 So the estimated 1.2 billion cost of
25 this set of projects would not hit customer --

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2 customer bills until sometime, let's say sometime
3 after 2030, so several years down the road. And I
4 think we have attempted to calculate based on what we
5 know about NYSEG's overall capital expenditures, what
6 -- what fraction of this 1.2 billion might represent
7 at that stage.

8 And I believe we calculated --.

9 MS. SORRENTINO: So yeah, we
10 calculated the impact to be about 16 percent based on
11 what would be rate year 1 of the current rate case.

12 COMMISSIONER HOWARD: So 16 --

13 MS. GRISARU: 16 --

14 COMMISSIONER HOWARD: -- percent.

15 MS. GRISARU: 16 percent --

16 COMMISSIONER HOWARD: -- 16.

17 MS. GRISARU: That's correct.

18 COMMISSIONER HOWARD: In an
19 environment where we've been keeping costs down to
20 the 2% range. So now we're looking forward -- should
21 these be ruled prudent, we are building in a
22 potential double digit bill increase. Is that fair
23 to say?

24 MS. GRISARU: It's a little hard to
25 answer not having the full context of what might come

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2 out of this next rate case, but we are certainly
3 adding to the upward pressure.

4 COMMISSIONER HOWARD: Thank you.

5 Also, through the course of discussion and briefing,
6 and just the historic record, this company has under
7 invested in transmission for decades, decades for a
8 whole variety of reasons.

9 And this Commission has allowed it to
10 happen largely to moderate rates or for a variety of
11 reasons going forward. But the time has come, some
12 of these -- and I'm an old guy and some of these
13 facilities we're talking about are way older than me,
14 way past their design life, they need to be replaced.

15 And by linking them to the C.L.C.P.A.
16 goals we sort of get, I don't want to use a phrase,
17 the get-out-of-jail-free card for the company, but it
18 certainly sounds a little bit like that. Because,
19 God, we know we've had to spend this money for
20 decades, we haven't done it, now we're going to do
21 it.

22 But if we do it now, we get some
23 headroom that meet our C.L.C.P.A. goals, so a large
24 potential double digit bill increase is okay. So
25 again, I'm very concerned about that, also, the

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2 timing. In all due respect, the analysis we have, I
3 -- I don't think four or five months makes a big
4 difference, I really don't, particularly in a period
5 of supply chain inadequacies.

6 We don't even know what the supply
7 chain is right now, in terms of building large
8 transmission facilities in the near and medium term,
9 I have no idea. We don't know that if this billion
10 two that we may ultimately approve in the rate case
11 will buy us the same number of projects they say
12 they're going to.

13 I believe that will be insufficient to
14 cover the cost of the projects enumerated in this
15 order. And I think the issue will also affect the
16 same supply chain issues and other issues will also
17 affect those companies and entities wanting to bid
18 into Tier 1.

19 We're already seeing delays in Tier 1
20 constructions, we've seen good projects withdrawn,
21 and we are really in an unprecedented times in terms
22 of what utility capital expenses mean, and how much
23 they really cost, and how much dollar we get -- how
24 much -- how much capital we -- investment we get for
25 every dollar we spend, we don't know that right now.

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2 So I think the appropriate place for
3 this will be in the rate case which as Commissioner
4 pointed out in some degree of eloquence is going on
5 now. And I don't believe that a delay of four
6 months, five months, will slow down our C.L.C.P.A.
7 goals.

8 And -- but as I stated earlier in
9 another case, transparency, let's tell everybody how
10 much this is going to cost way in advance of --
11 before we put our hand in their pocket. So I think
12 the -- I will be voting no, not because I don't
13 believe these projects are necessary, not because I
14 don't believe that they will provide C.L.C.P.A.
15 headroom.

16 I just think the appropriate venue for
17 this vote will be in several months when we do the
18 entire NYSEG rate case. Thank you, Mr. Chairman.

19 CHAIR CHRISTIAN: Thank you.
20 Commissioner Valesky?

21 MS. SORRENTINO: Excuse me, can I just
22 make a clarification on the 16%. I just wanted to
23 say that those in service dates are happening kind of
24 in -- in stages, not all in 2030. So the 16% is if
25 you kind of would lump it in all at once.

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2 However, that would really happen over
3 a multi-year period beginning in 2027 and going
4 through 2031.

5 COMMISSIONER HOWARD: Thank you,
6 MaryAnn. I -- I understand that, but so much of what
7 this Commission has done, particularly in regard to
8 C.L.C.P.A. compliance is obligating ratepayers many
9 years from now to pay the bill.

10 Just because we don't feel the pain
11 today doesn't mean it's not coming. So again, this
12 is just one aspect of many in both -- not only the
13 NYSEG service territory, but Statewide that we will
14 see growing revenue requirements and bigger bills
15 going forward.

16 I -- the question of whether it's
17 appropriate or not, that's -- that's for another
18 venue. But again, this is just -- I want to get on
19 the record, that we may be incurring costs to
20 ratepayers that they don't feel for many years.

21 CHAIR CHRISTIAN: Thank you very much.
22 We'll go on to Commissioner of Valesky, thank you.

23 COMMISSIONER VALESKY: Thank you, Mr.
24 Chairman. Liz, I want to try to just get a little
25 better understanding of -- of the timeline involved

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2 here. So if we could, so some of these will be
3 questions, some will be comments sort of as -- as we
4 go along, I guess.

5 So the -- the -- the original petition
6 was filed almost a year ago to the day, correct,
7 December 23rd --?

8 MS. GRISARU: That's correct, it was
9 last December.

10 COMMISSIONER VALESKY: Okay.

11 MS. GRISARU: Yeah.

12 COMMISSIONER VALESKY: So because we
13 have not taken any action yet, I suppose we're about
14 to, but because we haven't taken any action yet. The
15 -- has the company been able to -- the company hasn't
16 been able to do anything with what they've -- with
17 what they proposed a year ago, right, they've been
18 waiting for action from us.

19 MS. GRISARU: They've been waiting for
20 action from us and they have -- they -- they
21 reasonably or unreasonably expected the Commission
22 might have acted on the petition by sometime last
23 spring.

24 COMMISSIONER VALESKY: Okay. I'm glad
25 you said that, because that's where I kind of wanted

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2 to -- to follow up with you. And -- and -- so my
3 question has nothing to do with a lack of
4 appreciation of the work on your part, MaryAnn's
5 part, and your entire team.

6 But it almost seems to me because I
7 share some of the comments we've already heard about
8 the timeliness of this and in -- in the juxtaposition
9 to the -- to the upcoming rate case, joint proposal
10 that will -- I assume will be seen relatively soon.

11 Couldn't the argument be made that --
12 again, I know a lot of work was involved to bring it
13 to us. But shouldn't we have -- to your point about
14 the concern over the 2030 goals, shouldn't we have
15 had this already, perhaps a few months ago or even --
16 or even longer if in fact, the concern is -- is so
17 overwhelming that -- that -- that -- and I -- I don't
18 mean to put words in your mouth, but if we're somehow
19 coming, we're in danger of -- of coming off the
20 tracks of meeting those goals, shouldn't we have
21 already considered this by now?

22 MS. GRISARU: Well, at the time NYSEG
23 filed the petition a year ago, the company was
24 projecting in-service dates for the same -- for this
25 subgroup of projects -- forgive me, I think -- I

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2 think 25 to 20- -- 24 to 27 they hadn't --.

3 MR. ANCONA: 28.

4 MS. GRISARU: 28, so they -- so as of
5 last December they thought they could get -- they had
6 some wiggle room and that they could get these
7 projects in service by the 2028 timeframe. We did in
8 the, you know, over the last several months we have
9 talked with the company about its own estimate of the
10 timelines.

11 And they explained to us that, you
12 know, in part due to the uncertainty, those projects
13 have now slipped so that the current information that
14 we have is the same group of projects is now bumping
15 up against the 2030 deadline.

16 But if I'm answering -- if I'm
17 understanding your question, the company did not
18 start from a position of -- our hair is on fire, we
19 have to do this now because we're, you know, we're at
20 the end of our rope.

21 COMMISSIONER VALESKY: Okay. So going
22 forward with these projects, so assume that the order
23 is approved. So over the next four -- four-and-a-
24 half months \$99 million, roughly --

25 MS. GRISARU: Yeah.

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2 COMMISSIONER VALESKY: -- \$25 million
3 a month, roughly --

4 MS. GRISARU: Yeah.

5 COMMISSIONER VALESKY: -- the rough
6 math. So what is the development that will occur
7 over the next four-and-a-half months for roughly \$25
8 million a month? And -- and -- and as you answer
9 that, if you could answer to the necessity of
10 whatever that might be happening over the next four-
11 and-a-half months, as opposed to beginning May 1st.

12 MS. GRISARU: Right.

13 MR. ANCONA: Yeah, they -- they
14 basically probably spent already 60 million of that,
15 so it's not future going 25, maybe per month..

16 COMMISSIONER VALESKY: Well, then that
17 -- that's confusing, that's doubly confusing me
18 because if we haven't considered a petition yet, how
19 could they have spent anything?

20 MR. ANCONA: Out of the kindness of
21 their heart they started these -- well, these
22 projects have been on the books for a long time now.
23 So they've been working on them developing them, and
24 so on.

25 MS. GRISARU: Right. Don't -- don't

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2 forget these projects, as Jerry says, have been on
3 the company's books under the radar of what are our
4 future reliability and asset management obligations.
5 So the -- the company has been looking across its
6 portfolio, all of its facilities, and conducting
7 studies to see, you know, where the issues are, where
8 the issues are coming up.

9 So they're -- the company like, I
10 think all the utilities, they are constantly spending
11 money, looking forward, planning solutions, planning
12 for new, you know, for -- for -- for new work, for
13 new capital investment.

14 So they've been spending money, that's
15 why this is a request to continue spending money, not
16 to start spending, but to continue. And -- and,
17 yeah.

18 COMMISSIONER VALESKY: But the money -
19 - and I appreciate my colleague's patience with my
20 questions. The money that they have spent, was not
21 included in their previous rate case?

22 MS. GRISARU: I -- I think it -- I
23 mean --

24 MR. ANCONA: No.

25 MS. GRISARU: No, not -- not

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2 specifically spelled out in the previous rate case.

3 MR. ANCONA: No, because of projects -
4 - those projects were not in the rate case. So it's
5 just development costs that they do on the side and
6 eventually, they hope to capitalize them but --

7 COMMISSIONER VALESKY: And -- and so -
8 - so to fast forward to today, they're saying that
9 they're no longer going to continue to spend upwards
10 of the \$60 million that they've already spent unless
11 and until we approved this order.

12 MR. ANCONA: Part of the problem is
13 now they're -- now they're into the potential
14 procurement long term contract mode. And they don't
15 -- they don't want to get involved in long term
16 contracts if there's no -- no approval at this time.

17 So they'll spend -- they'll spend
18 dollars maybe to prepare an Article 7 and that type
19 of thing, but -- but they don't want to go ahead with
20 the major.

21 COMMISSIONER VALESKY: So -- so can I
22 -- if I could come back to the -- I know you had
23 started to answer the question. So the -- the \$98.8
24 million between now and May 1st, we'll just say May
25 1st, how will that be spent in terms of -- what is

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2 development spending on the development of these
3 projects, what does that actually mean?

4 MS. GRISARU: I -- I -- I -- I will
5 defer to Jerry who's had, you know, it's looking more
6 specifically, but it's continuing engineering, it's
7 preparing Article 7 applications, which if you think
8 about it requires a lot of environmental studies.

9 They have to be prepared in advance,
10 working, engineering, procurement, environmental
11 work, I think there's construction -- planning for
12 construction, acquiring resources. I mean, there's
13 infinite number of things that go into developing a
14 project and I will tell you from personal experience,
15 that developing an energy project cost a lot of
16 money.

17 And there are just a million things
18 that have to be done before you can put shovels in
19 the ground. So unless Jerry has nothing more
20 specific than that I --

21 MR. ANCONA: Yeah, I mean there's --
22 there's right of way procurement involved --

23 MS. GRISARU: Right of way, yeah.

24 MR. ANCONA: -- site preparation.

25 MS. GRISARU: Leases with local

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2 landowners, finding the right number of trucks to do
3 your snow plowing in case you need snow plowing,
4 there's just a huge amount of things that you have to
5 do to get ready to build a project. That said, I
6 think -- you reminded me of something, but now I
7 forgot.

8 COMMISSIONER VALESKY: Thank you for -
9 - for sharing that, because I think that's important
10 for us to know and for those who are listening to
11 know. I -- I guess -- I think that's it for my
12 questions, really more of a -- of a -- of a
13 rhetorical question.

14 I just --- I -- I can't help, but
15 wonder whether or not -- again, back to the timeline
16 that we have been traveling that started on December
17 23rd, 2021. Have we in fact, already passed the time
18 at which -- and by time, I mean, its proximity to the
19 upcoming rate case.

20 MS. GRISARU: Right.

21 COMMISSIONER VALESKY: Have we already
22 passed that time in which this order will in fact be
23 helpful. Again, that's not intended to be a
24 question, that's for which I'm seeking an answer, I
25 guess the answer is only time will tell, so I think

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2 I'll just leave it at that.

3 MS. GRISARU: You're not looking for a
4 response to that?

5 COMMISSIONER VALESKY: Sure. If you -
6 - if you feel like you could share one, sure.

7 MS. GRISARU: In -- in a way, you
8 know, one can say that about all things time will
9 tell, right. But we need -- we need to get a little
10 more granular than -- than the philosophical. This
11 Commission has a statutory obligation to identify the
12 upgrades that are needed to meet C.L.C.P.A.

13 And I think that, you know, that --
14 that statutory mandate has the same weight as the
15 other obligations that sit on you for overseeing the
16 system, including your obligation to look out for
17 reliability. So you have to factor, you know, you
18 have to factor all of those things into your decision
19 making.

20 We are -- we are -- we at the staff
21 level are trying to put you, the Commission in a
22 position to, at the end of the day succeed in meeting
23 the C.L.C.P.A. obligation in a way that is cost
24 effective and reliable.

25 COMMISSIONER VALESKY: Well, I

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2 appreciate that and I certainly appreciate, again,
3 the effort that you and your staff took to take these
4 original 23 projects and divide them into component
5 projects and really sort of drill down as to the ones
6 that -- that you and your collective expertise feel
7 are -- are necessary for -- for our consideration.
8 So thank you, Mr. Chairman.

9 COMMISSIONER BURMAN: Chair, I'd like
10 to weigh in here since a lot of this discussion right
11 now.

12 CHAIR CHRISTIAN: And I'm going to
13 have to stop you because I would like to offer the
14 other Commissioners opportunities to speak.

15 COMMISSIONER BURMAN: And then you'll
16 come back to me?

17 CHAIR CHRISTIAN: We'll go to a vote,
18 we've had our chance to go through, we've discussed,
19 I want to make --

20 COMMISSIONER BURMAN: But -- but -- so
21 we can't have Commission --

22 CHAIR CHRISTIAN: -- sure that they
23 have an opportunity.

24 COMMISSIONER BURMAN: -- deliberation
25 on some -- on flushing it out, staff can correct the

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2 record, but we can't flush it out?

3 CHAIR CHRISTIAN: Staff been providing
4 information, if you have another question that's in
5 addition to what's been asked before?

6 COMMISSIONER BURMAN: Yes, I have
7 another question then.

8 CHAIR CHRISTIAN: Okay.

9 COMMISSIONER BURMAN: Thank you.

10 CHAIR CHRISTIAN: Go ahead, ask.

11 COMMISSIONER EDWARDS: Excuse me,
12 Chair, is -- is this the protocol that we typically
13 follow, though, I mean, isn't it Commissioner
14 Maggiore's turn --

15 CHAIR CHRISTIAN: It is Commissioner
16 Maggiore's --.

17 COMMISSIONER EDWARDS: People are
18 entitled to vote where -- however they want to vote,
19 but I don't understand why we're having these
20 extended communications, it's Commissioner Maggiore's
21 turn.

22 COMMISSIONER BURMAN: I'll save my --
23 my question after Commissioner Maggiore goes --.

24 COMMISSIONER EDWARDS: So you can go
25 back and forth again?

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2 COMMISSIONER BURMAN: I think
3 Commission deliberation is appropriate.

4 CHAIR CHRISTIAN: Well, can we take a
5 moment here please to --.

6 COMMISSIONER EDWARDS: It's clear that
7 you're not supporting, I just think that this whole
8 thing is just -- it's too much.

9 CHAIR CHRISTIAN: Let -- let's take a
10 moment here, we're going to go to Commissioner
11 Maggiore. Thank you.

12 COMMISSIONER MAGGIORE: Thank you,
13 Chair. So thank you for the presentation, I thought
14 it was concise and answered many of the questions
15 that I had coming into this. I -- I, you know, in
16 the abstract I prefer this type of thing to be part
17 of a rate case --.

18 SECRETARY PHILLIPS: I'm sorry,
19 Commissioner Maggiore, the court reporter can't hear
20 you.

21 COMMISSIONER MAGGIORE: Okay. Can you
22 hear me better -- hear me better now, no?

23 SECRETARY PHILLIPS: Can you hear him?

24 CHAIR CHRISTIAN: Yeah, I think the
25 other microphone provides better sound.

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2 COMMISSIONER MAGGIORE: Anything?

3 CHAIR CHRISTIAN: No.

4 COMMISSIONER MAGGIORE: No?

5 CHAIR CHRISTIAN: The -- the
6 microphone Commissioner Edwards was using was working
7 better.

8 COMMISSIONER MAGGIORE: I now have
9 four microphones, is it better now?

10 CHAIR CHRISTIAN: Yeah, if you can
11 keep your voice up and stay close to the mic I think
12 we'll -- we'll work our way through.

13 COMMISSIONER MAGGIORE: All right,
14 okay. I will limit my comments to this, I think you
15 answered several of my questions coming into this,
16 you explained why we're doing this outside of a rate
17 case. I don't see anything in the record that
18 challenges your assessment of that.

19 There was a concern in the record
20 about limiting the authorization in this order only
21 to those projects that are necessary at this time,
22 which is what this order does. But based on what's
23 with the records and based on your explanation, I'm
24 intending to vote yes. So thank you very much.

25 COMMISSIONER EDWARDS: He's voting

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2 yes.

3 CHAIR CHRISTIAN: Thank you.

4 MS. GRISARU: Thank you.

5 CHAIR CHRISTIAN: Okay. Now with
6 that, we'll bring this item to a vote.

7 COMMISSIONER BURMAN: I think you're
8 going to let me ask a question.

9 CHAIR CHRISTIAN: I'm sorry, what was
10 that Commissioner Burman?

11 COMMISSIONER BURMAN: That you're
12 going to let me ask a question.

13 CHAIR CHRISTIAN: No, we are going to
14 move forward with the voting. Thank you. So my vote
15 is in favor of the recommendation to approve NYSEG's
16 request to develop certain Phase 1 local transmission
17 projects with modifications as discussed.
18 Commissioner Burman, how do you vote?

19 COMMISSIONER BURMAN: I'll be
20 explaining my vote as a no, it is for me very
21 important that I feel that my -- and all of our
22 Commission voices are heard. This -- traditionally,
23 since I've been on the Commission, just about -- 2023
24 will be my 10 years, I really very much appreciate
25 that it is not the way it has always been, which is

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2 that we are operating in silo and that there's due
3 deliberation that's happening in public and perhaps
4 also making us think about whether we're rightly
5 voting, whether we're thinking through it.

6 And that questions that come up or
7 thoughts that come up during the Commission session
8 are able to be discussed and deliberated. And just
9 because one person has already spoken, there may
10 afterwards be another question or a thought that
11 comes up, or some due deliberation to go back and
12 forth.

13 I'm in the uncomfortable position of
14 being silenced in trying to ensure that my rationale
15 for why I'm voting no is a sound one. Staff has felt
16 empowered to correct in air quotes, the record on
17 things that have come up that I have said or that
18 another Commissioner has said.

19 And then another Commissioner asked
20 questions and then staff is engaged in explaining it
21 on a lot of the issues that I specifically am focused
22 on. So it's important for me to feel that it is a
23 Commission deliberative process.

24 Staff is there to answer questions and
25 to help shed light on things, but it's for us as a

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2 Commission, as a body to make sure that we are
3 collaboratively discussing. In fact, something that
4 I think we've all tried to strive for and it's
5 actually I think, refreshing to go into a session
6 with people open to listening to what others are
7 saying, and for staff to feel comfortable in sharing
8 their thoughts.

9 I think it's really good, it's not
10 good for a Commissioner to feel silenced, especially
11 when she sticks out like a sore thumb in how she
12 thinks and sees it differently. And it's actually
13 very demoralizing to me to not have that opportunity
14 to shed some light on or some more information that I
15 think is important.

16 It is really important for us to make
17 sure that we are moving forward together in a way
18 that brings us together as a team, even if we have
19 diversity of substantive thought. Really important.
20 I can't feel comfortable if we're isolating people's
21 communication in that way.

22 The real issue is, does this put
23 things at harm, the company originally said it would
24 be done in X days --

25 CHAIR CHRISTIAN: Commissioner Burman,

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2 I'm sorry, I'm going to have to stop you there.

3 We're voting on the item, I'm happy to provide you
4 additional time, but we've done our deliberations and
5 we're at the voting stage of the proceeding.

6 COMMISSIONER BURMAN: I vote no.

7 Thank you.

8 CHAIR CHRISTIAN: Thank you.

9 Commissioner Alesi?

10 COMMISSIONER ALESI: I vote yes.

11 CHAIR CHRISTIAN: Thank you.

12 Commissioner Edwards?

13 COMMISSIONER EDWARDS: I vote yes.

14 CHAIR CHRISTIAN: Commissioner Howard?

15 COMMISSIONER HOWARD: No.

16 CHAIR CHRISTIAN: Commissioner

17 Valesky?

18 COMMISSIONER VALESKY: Yes.

19 CHAIR CHRISTIAN: Commissioner

20 Maggiore?

21 COMMISSIONER MAGGIORE: Yes.

22 CHAIR CHRISTIAN: Thank you. The item
23 is approved and the recommendations are adopted.

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

25 Commissioners wish to comment on or recuse from

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2 voting on any items on the consent agenda, and I'll
3 reiterate items specific to the consent agenda
4 beginning with Commissioner Burman.

5 COMMISSIONER BURMAN: Item 263, I'm a
6 no -- no consistent with my past voting record. Item
7 371, I want to take a moment, this is on the matter
8 of the reliability rules of the New York State
9 Reliability Council and the criteria of the Northeast
10 Power Coordinating Council.

11 I want to give a big, big kudos to our
12 staff who works tirelessly on the reliability issues.
13 And I want to give a big shout out of kudos to those
14 who are involved in the reliability rules and the New
15 York State Reliability Council and the New York ISO
16 and all stakeholders who are dedicated to this issue.

17 It may seem like a sleeper of an
18 issue, but these reliability rules and our engagement
19 and -- and drilling down on this is super, super,
20 super important. And I can't underscore enough my
21 admiration for those who are working on these issues.
22 So thank you.

23 CHAIR CHRISTIAN: Commissioner Alesi?
24 Forgive me, Commissioner Alesi?

25 COMMISSIONER ALESI: I'll be voting

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2 yes on the entire agenda.

3 CHAIR CHRISTIAN: Commissioner

4 Edwards?

5 COMMISSIONER EDWARDS: No questions,

6 no comments, I'll be supporting the consent agenda.

7 CHAIR CHRISTIAN: Commissioner Howard?

8 COMMISSIONER HOWARD: Yes, I'll be

9 supporting the consent agenda except for one item,

10 item 370, that's consistent with my prior votes on

11 the subject.

12 CHAIR CHRISTIAN: Commissioner

13 Valesky?

14 COMMISSIONER VALESKY: Yes, on all

15 items.

16 CHAIR CHRISTIAN: Commissioner

17 Maggiore?

18 COMMISSIONER MAGGIORE: I will be

19 supporting all of the consent agenda, yes on all item

20 of the consent agenda.

21 CHAIR CHRISTIAN: Thank you. So my

22 vote is in favor of the recommendations on the

23 consent agenda. Commissioner Burman?

24 COMMISSIONER BURMAN: I'm in favor of

25 all items except 263, I'm a no vote. Thank you.

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2 CHAIR CHRISTIAN: And Commissioner

3 Alesi?

4 COMMISSIONER ALESI: Yes on all items.

5 CHAIR CHRISTIAN: Commissioner

6 Edwards?

7 COMMISSIONER EDWARDS: Yes on all

8 items.

9 CHAIR CHRISTIAN: Commissioner Howard?

10 COMMISSIONER HOWARD: Yes on all items

11 except item 370 where I am a no.

12 CHAIR CHRISTIAN: Commissioner

13 Valesky?

14 COMMISSIONER VALESKY: Yes on all

15 items.

16 CHAIR CHRISTIAN: Commissioner

17 Maggiore?

18 COMMISSIONER MAGGIORE: Yes on all

19 items.

20 CHAIR CHRISTIAN: Okay. The items are

21 approved and the recommendations are adopted.

22 Secretary Phillips, is there anything further to come

23 before us today?

24 SECRETARY PHILLIPS: Nothing further

25 except that I just want to wish everyone happy

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2 holiday season and a happy new year.

3 CHAIR CHRISTIAN: Thank you. And
4 before we adjourn, I wish to -- one, I want to
5 acknowledge and celebrate the service of the D.P.S.
6 employee who has served the agency and the people of
7 New York in a way that few others have. I'd like to
8 recognize Gregg Sayre, former Commissioner of
9 P.S.C., thank you, please stand up.

10 Sorry to embarrass you, Gregg, but I
11 know you will be retiring and we wanted to properly
12 acknowledge all the good work and help you provided
13 us as an agency, and again, the State of New York.
14 So thank you for your service.

15 MR. SAYRE: Thank you very much.

16 CHAIR CHRISTIAN: All right, great.
17 Thank you. All right. And with that, I will adjourn
18 today's meeting. Thank you all.

19 (The meeting adjourned at 1:20 p.m.)

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2 STATE OF NEW YORK

3 I, Hannah Belair, 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 117, is a true record of all proceedings had at
8 the hearing.

9 IN WITNESS WHEREOF, I have hereunto
10 subscribed my name, this the 19th day of December, 2022.

11

12

13 HANNAH BELAIR, Reporter

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