

Monthly Meeting - 2-6-20

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

MONTHLY MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, February 6, 2020  
10:31 a.m.  
Three Empire State Plaza  
Agency Building 3, 19th Floor

Albany, New York

COMMISSIONERS:

JOHN B. RHODES, Chair  
DIANE X. BURMAN  
JAMES S. ALESI  
TRACEY A. EDWARDS  
JOHN B. HOWARD

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2 (On the record 10:31 a.m.)

3 CHAIRMAN RHODES: I call this session  
4 of the Public Service Commission to order. Secretary  
5 Phillips, are there any changes to the final agenda?

6 SECRETARY PHILLIPS: There are no  
7 changes.

8 CHAIRMAN RHODES: Thank you. So let's  
9 get into the business items. The first item for  
10 discussion, Item 301, Cases 19-E-0105 et al as they  
11 relate to the joint proposal filed on December 18,  
12 2019 to resolve penalty amounts for alleged  
13 violations by New York State Electric and Gas and  
14 Rochester Gas and Electric presented by  
15 Administrative Law Judge James Costello. Judge  
16 Costello, please begin.

17 A.L.J. COSTELLO: Okay. Good morning,  
18 Chairman Rhodes and Commissioners. Item 301 is a  
19 proposed commission order adopting the terms of a  
20 joint proposal between Department of Public Service  
21 staff, New York State Electric and Gas Corporation,  
22 which I will refer to as NYSEG, and Rochester Gas and  
23 Electric Corporation, which I will refer to as RG&E.

24 Under the terms of the joint proposal,  
25 NYSEG and RG&E agree to pay penalties for admitted

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2 violations of their emergency response plan in  
3 connection with several major storms that occurred  
4 during the winter and spring of 2018 which included  
5 winter storms Riley and Quinn. As a result of the  
6 2018 winter and spring storms, which left more than  
7 500,000 New York homes and businesses without power,  
8 some for as long as 10 days, Governor Andrew Cuomo  
9 initiated an investigation into utility preparedness  
10 and response.

11 The Department of Public Service staff  
12 conducted the in-depth investigation to determine  
13 whether the companies properly prepared for and  
14 responded to the 2018 winter and spring storms in  
15 compliance with their annually filed emergency  
16 response plan which the companies are required to  
17 file pursuant to the Public Service Law, commission  
18 regulations and commission orders.

19 The Department of Public Service staff  
20 engaged in substantial public outreach to better  
21 understand the issues of problems experienced during  
22 the 2018 winter and spring storms. Among other  
23 things, staff conducted various public statement  
24 hearings across the state at which numerous customers  
25 and public officials provided both written and oral

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2 comments. Staff also conducted interviews with  
3 state, county, city and town officials and reviewed  
4 complaint data filed with the department's Office of  
5 Consumer Services.

6 After the investigation, the  
7 department issued a report identifying for NYSEG and  
8 RG&E 24 potential regulatory violations. Twenty by  
9 NYSEG and four by RG&E resulting from their failure  
10 to follow their emergency response plan. The report  
11 also made 77 recommendations for corrective actions  
12 to be implemented by the companies in their emergency  
13 response plan.

14 On April 18th, 2019 the commission  
15 issued an order directing the companies to show cause  
16 why the commission should not pursue civil penalties  
17 pursuant to Public Service Law Section 25 or  
18 administrative penalties pursuant to Public Service  
19 Law Section 25-A. And why the companies should not  
20 implement the 77 recommendations made in the staff  
21 report.

22 On May 20th, 2019, the companies filed  
23 a document accepting all 77 of the staff's  
24 recommendations proposing minor modifications to 8 of  
25 those recommendations. The companies and Department

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2 of Public Service staff also engaged in settlement  
3 negotiations with respect to the alleged regulatory  
4 violations. On December 18th, 2019 the companies  
5 filed a joint proposal signed by the companies and by  
6 Department of Public Service staff. NYSEG admitted  
7 in the joint proposal to 18 violations and RG&E  
8 admitted to 3 violations and stipulated that their  
9 actions with respect to those violations did not  
10 comply with their emergency response plan, the  
11 commission orders adopting approving that emergency  
12 response plan, and 16 New York C.R.R. Part 105 of the  
13 commission's regulations.

14 In a statement filed in support of the  
15 joint proposal, Department of Public Service staff  
16 explained that based upon factual clarifications made  
17 in the course of the settlement negotiations, staff  
18 determined not to pursue 2 of the alleged violations  
19 against NYSEG and 1 of the alleged violations against  
20 RG&E that were alleged in the order to show cause.

21 With respect to the 21 violations to  
22 which the companies admitted in the joint proposal,  
23 the companies agreed to pay a penalty amount of \$10.5  
24 million. \$9 million on behalf of NYSEG and \$1.5  
25 million on behalf of RG&E. Those funds will be paid

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2 by the companies' shareholders and will be used for  
3 the benefit of the companies' electric rate payers.  
4 Negotiation on the specific manner in which the funds  
5 will be used has been referred to the companies'  
6 pending electric rate cases and will be subject to  
7 input from interested stakeholders in those cases.

8 The \$10.5 million amount represents  
9 the full penalty amount that could be assessed for  
10 each of the 21 -- for the 21 violation -- regulatory  
11 violations to which the companies admitted. It is  
12 the largest penalty amount ever in New York State for  
13 the failure to follow emergency response procedures.

14 The draft order before you recommends  
15 that the commission adopt the joint proposal as in  
16 the public interest. The parties to the joint  
17 proposal followed the appropriate procedures required  
18 by the commission's settlement guidelines. It  
19 contains an admission by the companies to 21  
20 violations and provides for a significant amount of  
21 funds to be paid by the companies' shareholders for  
22 the benefit of the companies' electric rate payers.

23 The joint proposal insures that such  
24 rate payers will timely receive the benefits of the  
25 settlement amount without the risk and delay of

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2 further litigation. The settlement amount was  
3 reached among normally adversarial parties and falls  
4 within the reasonable range and results that could  
5 have been expected if the penalty proceedings had  
6 been fully litigated. No comments in opposition to  
7 the joint proposal have been received. This  
8 concludes my presentation. I'm available for any  
9 questions. Thank you.

10 CHAIRMAN RHODES: Thank you, Jim. My  
11 own comments are that this is an important item. It  
12 relates to failures in storm response that caused  
13 meaningful complications for many of New York's  
14 citizens. I'm looking around and I note that many of  
15 us in this room were deployed in the field during --  
16 during some -- some of you are nodding -- during  
17 these -- during these events. And there's a lot to  
18 do.

19 I think the penalties are appropriate.  
20 I think the remedies are appropriate. I think the  
21 companies' admission of its failures is appropriate,  
22 and reflects an -- an important element of candor and  
23 ownership of the issues. And I am pleased that it's  
24 one of the important outcomes of a really strong  
25 investigation and a strong set of recommendations

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2 that flowed from -- from those events. So this is --  
3 this is -- this is a good and strong outcome, and I'm  
4 going to be in favor. Commissioner Burman.

5 COMMISSIONER BURMAN: Thank you. So I  
6 -- I -- I'm going to be concurring but I want to sort  
7 of give some consideration for how I came to this  
8 determination. In April of 2019 when it came before  
9 the commission for an order to show cause, I voted  
10 no. I was concerned about the process, and I was  
11 concerned about us not following our proper  
12 regulations and settlement guidelines.

13 And I believe that was the right  
14 decision. And I also am incorporating those comments  
15 into the record as it applies still because I think  
16 that threshold matter still exists. And the comments  
17 that I made at that time I think are still relevant  
18 in terms of what we're doing with orders to show  
19 causes and the real need for the commission to have a  
20 clear process that will -- that really abides by I  
21 think a fair and appropriate review.

22 Being that as it may, I need to look  
23 under the hood and see since that time what the  
24 process has been. And what some of the resolution  
25 proposals are to be able to make now a fair



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2 determination based on what's before us now rather  
3 than sort of staying to where I thought we should  
4 have gone back in April. From my perspective, I  
5 think that some of the reasons that help me vote in  
6 favor of this is that there was filed a response to  
7 some of the concerns.

8 And NYSEG filed that substantively and  
9 gave their -- their perspective as well as filing  
10 that they were engaged in exploratory discussions.  
11 And the secretary, a number of occasions, extended  
12 the time requirements based on the fact that there  
13 were exploratory discussions occurring. That's in  
14 line with the settlement guidelines. And then NYSEG  
15 counsel, I think, appropriately so and kudos to NYSEG  
16 counsel, filed a letter acknowledging that now  
17 settlement discussions were underway. Settlement  
18 negotiations were underway and filed pursuant to the  
19 settlement guidelines that notification letter which  
20 is not just one, you know, NYSEG or utilities. But  
21 it's really for any party to make sure that that's  
22 properly filed. And in this case it was NYSEG.

23 So that gave notice that that was  
24 going on. I -- there was -- the only -- 2 parties  
25 that were involved in those discussions were staff

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2 and NYSEG. And then a settlement joint proposal came  
3 out of that. In looking at it from my perspective,  
4 NYSEG also admitted to some of the violations.  
5 Looking at that in a whole and also seeing how they  
6 had also filed properly that they were undertaking  
7 settlement negotiations, exploratory discussions and  
8 then settlement negotiations, as well as engaging in  
9 trying to give as much information as they could to  
10 the public, even understanding the confidentiality of  
11 the settlement discussions.

12 And, in fact, during this time period  
13 from April 2019 to now, they also incorporated many  
14 of the emergency response plan changes that were  
15 recommended. And so we had that also as well. And  
16 we approved those changes in the E.R.P. for the 2018  
17 E.R.P. And since that time also, December of 2019,  
18 NYSEG as well as all of the utilities filed their  
19 updated E.R.P.s which we should be -- if it's not  
20 SAPA'd already, it would be -- they would all be  
21 SAPA'd and then we'll be incorporating that.

22 So from my perspective, I do think  
23 that this was an attempt to follow the regulations as  
24 well as to in good faith enter into discussions. I  
25 do note that you stated, A.L.J. Costello, that it was

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2 the -- the joint proposal was entered into between  
3 normally adversarial parties. I'm not sure if I  
4 would categorize staff and utilities as normally  
5 adversarial. Normally when I look at the fact that  
6 we're bringing together normally adversarial parties,  
7 it's a larger group of people. And so categorizing  
8 just the staff and the utilities as, you know,  
9 meeting that threshold, I'm not sure that I would --  
10 that I would -- that I feel as comfortable. And I  
11 don't know that that's actually the intent behind it.

12 So I just raise that because when I  
13 look at it, I look at we should try to have more than  
14 just staff and utilities engaged in this. However, I  
15 think a thing that for me is very helpful is that,  
16 and I'm very mindful of, is that the settlement of  
17 the joint proposal looks at future engagement with  
18 more stakeholders by having the actual dollars that  
19 have now been decided to go, in this case, into the  
20 rate case for further evaluation and discussion on  
21 what that would mean.

22 Initially I was concerned about that  
23 because I was concerned about having those dollars go  
24 into the rate case that may dilute the appropriate  
25 evaluation of what to do with those dollars as it

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2 relates to the settlement and the violations. I did  
3 look at the Public Service Law under Section --  
4 Public Service Law Section 66(21), actually (22). It  
5 says that the -- and this is under the emergency  
6 response plans. It says that the commission shall  
7 permit the recovery through rates established  
8 pursuant to the section of all payments made.

9 And -- and it allows the ability for  
10 us to take that money and differ it to the rate case  
11 for consideration. However, I do think we need to --  
12 and that doesn't mean that we -- we -- we must but it  
13 is something that we could look at as an appropriate  
14 avenue whether it's done through the joint proposal  
15 in totality and addressing that or in the rate case.

16 For me I think I need to be extremely  
17 mindful and share it publicly that whether it is  
18 decided in -- in a settlement joint proposal that  
19 comes before us, or whether it's decided in the rate  
20 case itself, it is really important that the monies  
21 that we're looking at and what we're looking to then  
22 utilize it for, whatever programs we may be  
23 establishing through that, that there is a true  
24 benefit cost analysis that is engaged in on what we  
25 are doing with those dollars, as well as looking at

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2 the long term implications of any new programs that  
3 may come out of a settlement or in this case through  
4 the rate case, because we want to make sure that some  
5 of our policy decisions are decisions on how to  
6 utilize those dollars are really being done  
7 prudently.

8 But also making sure that it's while  
9 in -- in one case the shareholders may have borne the  
10 cost, to the extent that then it may have long term  
11 implications for the continuation of a program after  
12 those shareholder dollars are used up, we need to  
13 make sure that we are being very mindful of that and  
14 taking that into consideration because then that does  
15 affect future rate payer dollars that may come.

16 And then the other thing I would just  
17 say from that perspective is that we also need to  
18 have in what we are doing, the flexibility for any  
19 future innovation or processes that may come out of  
20 the lessons that we're learning from future storms.  
21 And so while we may be looking at it in terms of  
22 whether there was a violation to the extent that  
23 future actions, and this is why it's important for  
24 the commission itself to approve the plans, they  
25 really are a -- a living document that is supposed to

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2 be continually incorporating the lessons learning and  
3 helping to set some behavioral and organizational  
4 changes. And for folks to know how to in events  
5 what's expected.

6 But understanding that the Public  
7 Service Law is very clear about the commission itself  
8 adopting those plans. And the reason for that when  
9 the law was established was because even though we  
10 had always had emergency response plans, they never  
11 come before the commission. And now it was really  
12 important out of the lessons learned from Super Storm  
13 Sandy that the commission needed to take an active  
14 role in that.

15 And that's why for me it's really  
16 important from a lot of the intent behind Public  
17 Service Law 66 is about the -- and the law itself  
18 goes into quite a bit about the commission and the  
19 review process and the necessity for following due  
20 diligence in our investigations. And the commission  
21 itself having a very strong role in helping to set  
22 the tone of what is expected

23 In light of all of that, you know,  
24 there are still some gaps in our procedural process  
25 that -- and gaps between how we operate with other

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2 orders to show causes that don't necessarily match  
3 up. It's really important from regulatory certainty  
4 not just for the staff and not just for the companies  
5 but for the public itself to have a clear  
6 understanding of what the pathways are. And what the  
7 expectations are.

8 And from my perspective, I plan to get  
9 under the hood more on the emergency response plans  
10 that will be coming before us in some future date for  
11 adopting because we do now have, since the law has  
12 been established, a significant amount of history,  
13 positive and negative, that we can look at to ensure  
14 that we're setting the right, adopting the right  
15 emergency response plans with the focus on what does  
16 that mean in going forward. And so I'm going to be  
17 voting -- going to be concurring. And I thank you  
18 for all your hard work on this.

19 CHAIRMAN RHODES: Thank you.  
20 Commissioner Alesi.

21 COMMISSIONER ALESI: Thank you, Mr.  
22 Chairman. I will be supporting this. I think it's a  
23 good proposal. It is for the customer's benefit. It  
24 will result in a benefit to the public as well, and  
25 it comes at a cost to the shareholders and not to the

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2 customers. I think that we should not forget how we  
3 got here, however, even though this is good news that  
4 we've gotten this agreement without going through  
5 litigation.

6 We got here through some admittedly  
7 wrong deeds on the part of the companies as they  
8 admit themselves. And we should hope that history  
9 does not repeat itself. Having said that, I should  
10 also remark on your comments as to how much time and  
11 effort went into this from members of the department.  
12 And I have my personal thanks for all that effort as  
13 well. I'll be supporting this.

14 CHAIRMAN RHODES: Thank you.

15 Commissioner Edwards.

16 COMMISSIONER EDWARDS: Thank you. Of  
17 those 77 recommendations how many of them have  
18 already been implemented?

19 A.L.J. COSTELLO: I don't have that  
20 information. I know that what they've agreed to is  
21 implement that and they are working with Department  
22 of Public Service staff on an ongoing basis to make  
23 sure that the -- those recommendations are  
24 implemented.

25 COMMISSIONER EDWARDS: Okay. Would



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2 you be able to provide me after this the 77  
3 recommendations and expected date of completion if  
4 staff could do that?

5 A.L.J. COSTELLO: I will.

6 COMMISSIONER EDWARDS: Okay. All  
7 right. Great. Thank you. I'll be voting --.

8 CHAIRMAN RHODES: Thank you.  
9 Commissioner Howard.

10 COMMISSIONER HOWARD: I think, first I  
11 want to congratulate the staff and -- for the hard  
12 work done on this. This really does send a very  
13 strong signal to the utilities. Not just these 2  
14 companies but utilities at large about the issues  
15 surrounding storm response. You know, tens of  
16 thousands of customers were affected not only with  
17 their loss of service. But I think more crucially,  
18 since I was actually on site for most of this --  
19 these outages, was the lack of accurate information  
20 being provided to not only customers but local  
21 elected officials.

22 Time and time again the biggest  
23 frustration was, we know that there was a bad storm.  
24 We know trees come down. We know lines are taken  
25 down. But tell us when and where the restorals are

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2 going to be accurately so citizens, customers and  
3 local governments can plan effectively. I know these  
4 issues will be a -- a large focus in the ongoing case  
5 particularly as it may relate to vegetation  
6 management. However, it -- the most important thing  
7 is improving communications between the companies and  
8 the affected localities and the customers involved.

9 I -- on a personal note I found that  
10 particularly unacceptable. So I am going to vote in  
11 favor of this measure. And thank everybody again.  
12 And hopefully this sends a signal that -- that this  
13 commission is very serious about companies living up  
14 to their obligation to provide service even under the  
15 most difficult circumstances.

16 CHAIRMAN RHODES: Thank you. With  
17 that I will proceed to call for a vote. My own vote  
18 is in favor of the recommendations to adopt the terms  
19 of the joint proposal as discussed. Commissioner  
20 Burman, how do you vote?

21 COMMISSIONER BURMAN: I concur.

22 CHAIRMAN RHODES: Commissioner Alesi?

23 COMMISSIONER ALESI: Yes.

24 CHAIRMAN RHODES: Commissioner

25 Edwards?

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2 COMMISSIONER EDWARDS: Yes.

3 CHAIRMAN RHODES: Commissioner Howard?

4 COMMISSIONER HOWARD: Yes.

5 CHAIRMAN RHODES: The item is approved  
6 and the recommendation is adopted. Thank you. We  
7 will now move to the next 3 items as these items all  
8 involved the same company staff will present all 3  
9 items and then address questions and seek comments  
10 from the commissioners. We will then proceed to vote  
11 on each item individually.

12 Case 14 -- sorry, 401A Case 16-W-0259  
13 which is the proceeding on motion of the commission  
14 as to the rates, charges, rules and regulations of  
15 New York American Water Company presented by Mike  
16 Rieder, deputy director of rates and tariffs, Tim  
17 Canty, chief of water policy, Steve Kramer, assistant  
18 counsel and John Sipos deputy general counsel are  
19 available for questions. Mike, please begin.

20 MR. RIEDER: Good morning, Chair.  
21 Good morning, Commissioners. Item 401A addresses the  
22 petitions filed by New York American Water to  
23 recommence a modified levelization surcharge and to  
24 substitute and expand the number of capital projects  
25 recovered under its system improvement charge

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2 mechanism.

3 On May 18th, 2017 the commission  
4 issued an order approving a 4 year rate plan for New  
5 York American Water which included authorization for  
6 the recovery of, through its system improvement  
7 charged mechanism, 9 capital projects totaling \$38.6  
8 million. Additionally, in order to mitigate rate  
9 year 1 bill impacts, the commission levelized the  
10 revenue increases over the term of the rate plan.  
11 Under the levelized revenue increases for Service  
12 Area 1 which is largely comprised of the Lynbrook  
13 District and includes several small water systems, a  
14 portion of the levelized revenue increase for rate  
15 year 3, that's the 12 months ending March 31, 2020  
16 and rate year 4, the 12 months ending March 31, 2021  
17 would be collected through the levelization  
18 surcharge.

19 At the end of the rate plan, the  
20 surcharge will end so that base rates are not higher  
21 than they would have been if the revenue increases  
22 had not been levelized. On February 25th, 2019 New  
23 York American Water filed a petition requesting  
24 authorization to postpone the rate year 3  
25 levelization surcharge for Service Area 1 customers

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2 that was set to go into effect on April 1, 2019 and  
3 then recommence a modified levelization surcharge on  
4 April 1, 2020.

5 The company also requested to  
6 substitute and expand the number of capital projects  
7 recovered under its system improvement charge  
8 mechanism from \$38.6 million as approved in the rate  
9 order to \$57.1 million and requested approval to  
10 deploy advanced metering infrastructure or A.M.I. If  
11 its proposals were adopted by the commission, the  
12 company indicated that it would agree to not file for  
13 a base rate increase for a period of 1 year.

14 On February 27, 2019, the commission  
15 approved the postponement of the rate year 3  
16 levelization surcharge for Service Area 1 and  
17 deferred action on the other matters raised in the  
18 company's initial petition to a future date. If the  
19 rate year 3 levelization surcharge had gone into  
20 effect, the company would have collected  
21 approximately \$4.5 million from Service Area 1  
22 customers over the year.

23 On November 25, 2019 New York American  
24 Water filed supplements and amendments to its initial  
25 petition related to its proposed capital projects.

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2 The supplemental petition includes updates to this --  
3 to the cost estimates of certain capital projects and  
4 a change in the scope for its A.M.I. project.

5 Overall, the company reduced its cost estimates by  
6 about \$6 million in its supplemental petition.

7 In addition, the company filed a  
8 benefit cost analysis that indicates that A.M.I. has  
9 a benefit cost ratio greater than 1. A.M.I.  
10 implementation will provide customers' interval meter  
11 data to evaluate their consumption and make informed  
12 conservation decisions to achieve overall cost  
13 savings on their water bills. Customers will be able  
14 to view their granular usage data via the My Account  
15 customer portal which also provides access to monthly  
16 billing and online payment options.

17 A.M.I. will also allow customers to  
18 sign up for and receive continuous flow alerts and  
19 high bill alerts. For the company, A.M.I. will allow  
20 it to improve its ability to plan and manage its  
21 resources, to meet the peak demands of its system  
22 while providing the company more granular system data  
23 to assist with determining the amount of nonrevenue  
24 water and understanding customer usage patterns.

25 MR. RIEDER: Understanding customer

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2 usage patterns will allow New York American Water to  
3 better design programs to meet the needs of its  
4 customers and to provide useful tips to customers on  
5 how to reduce their bills. In addition to A.M.I.,  
6 New York American Water proposes to defer two of the  
7 previously approved system improvement charge  
8 projects in Service Area 1. Namely, the  
9 reconstruction of Plant 4 and Plant 6 iron removal  
10 facilities. This is due to the reduced water usage  
11 in its service areas resulting from the company's  
12 conservation program.

13 The company proposed 7 additional  
14 system improvement charge projects to further upgrade  
15 its system. These projects are comprised of various  
16 main replacement projects to address water quality  
17 and fire protection issues. Improvements to  
18 production plants Number 5 and Number 20, a filter  
19 plant expansion in a well re-drill all of which are  
20 necessary capital investments that will allow the  
21 company to continue to provide safe and adequate  
22 service.

23 On November 20, 2019, American  
24 Waterworks Company, New York American Water's parent  
25 company, announced that it had entered into an

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2 agreement to sell New York American Water to Liberty  
3 Utilities. To date, the companies have not filed a  
4 petition seeking the commission's review and approval  
5 of the transaction.

6 In the draft -- in the draft order  
7 before you, it is recommended that the commission  
8 approve the company's proposed substitution and  
9 expansion of the number of projects recoverable  
10 through its system improvement charge mechanism.  
11 This will allow the company to make smart investments  
12 for the benefit of its customers.

13 It is further recommended that the  
14 Service Area 1 levelization surcharges for rate year  
15 3 and rate year 4, which are scheduled to become  
16 effective on April 1, 2020, be postponed and  
17 incorporated into the commission's expected  
18 proceeding that will evaluate if the acquisition of  
19 New York American Water by Liberty Utilities is in  
20 the public interest. That concludes my presentation  
21 of Item 401A. I now turn it over to Tim Canty to  
22 present Item 401B.

23 MR. CANTY: Good morning Chair and  
24 Commissioners. Item 401B addresses the sale of New  
25 York American Water property to the Village of Sea



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2 Cliff. As part of the consent order issued on  
3 September 11th, 2018, New York American Water agreed  
4 to contribute \$1 million in shareholder money towards  
5 the sale of 1 of its properties to the Village of Sea  
6 Cliff.

7 On October 3rd, 2019 New York American  
8 Water and the village filed a joint petition seeking  
9 approval to transfer utility property to the village.  
10 Staff reviewed it and the audited the join filing to  
11 determine that the -- that the transaction is  
12 consistent with the consent order and is in the  
13 public interest. Item 401B approves the sale of that  
14 property to the village for \$1.6 million which breaks  
15 down \$600,000 from the village and \$1 million from  
16 American Water shareholders.

17 The order finds that the sale of  
18 property should not impact reliability, safety or  
19 operations of New York American Water since the  
20 property is used as office space and storage. The  
21 sale price of \$1.6 million for this property, which  
22 has been designated as a historic landmark, is  
23 reasonable and supported by independent appraisals.  
24 And the order finds the sales and the public interest  
25 as required by Section 89H of the Public Service Law.

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2 The net proceeds of this sale will be  
3 passed back as a credit on customers' bills. We  
4 estimate that a typical Sea Cliff customer using  
5 approximately 4,000 gallons per month should see  
6 about \$171 credit on their bill. This credit is  
7 based on volumetric usage so the actual bill credit  
8 will vary from customer to customer.

9 The village plans to use this  
10 partially donated property as recreational space open  
11 to the public. So Sea Cliff -- Sea Cliff customers  
12 will receive a large credit on their bills and have a  
13 new recreational space once this sale is complete.  
14 In addition, the village will withdraw its Article 78  
15 proceeding that is currently pending against both New  
16 York American Water and the commission. Customers  
17 will be released from any future environmental  
18 liabilities associated with the property, and  
19 customers will see future reductions in rates due to  
20 the avoided property tax expense on this property  
21 which will flow to them through the property tax  
22 reconciliation mechanism. And now I will turn it  
23 over to Aric Rider to discuss Item 401C.

24 MR. RIDER: Good morning Chair and  
25 Commissioners. Item Number 401C before you today is

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2 a draft order regarding New York American Water in  
3 its final implementation plan to improve customer  
4 service and communications. It is recommended that  
5 the commission approve the final implementation plan  
6 with modifications to include further reporting  
7 requirements and further improvements to certain  
8 deliverables.

9 As Mr. Rieder explained on May 18th,  
10 2017, the commission approved a 4 year rate plan for  
11 New York American Water which included inclining  
12 block rates designed to encourage conservation of  
13 water. Shortly after the start of the second rate  
14 year of New York American Water's rate plan during  
15 the summer of 2018, nearly 2,000 customer bill  
16 complaints were filed with the company. Most of  
17 these complaints were related to a lack of notice  
18 specific to the inclining block rate which led to  
19 significant and unexpected bill impacts.

20 The company was required to hire an  
21 independent monitor at shareholder expense to among  
22 other things, review the cause of the increased  
23 complaints related to the new rate structure and New  
24 York American's Water's response to the complaints.  
25 On October 18th, 2018, the commission approved the

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2 selection of P.A. Consulting Group or P.A. Consulting  
3 as the independent monitor.

4 P.A. Consulting's final report was  
5 submitted to staff on June 26, 2019 regarding the  
6 increase in customer complaints. P.A. Consulting  
7 found that New York American Water's failure to  
8 adequately communicate the inclining block rate  
9 structure and the pressing need for additional  
10 conservation efforts to its customers was the primary  
11 cause.

12 New York American Water submitted an  
13 interim implementation plan in conjunction with P.A.  
14 Consulting's final report on June 26, 2019 in which  
15 New York American Water accepted all of P.A.  
16 Consulting's recommendations. For each  
17 recommendation, the company identified the steps it  
18 has taken or will take to implement the  
19 recommendation, the timing of such and how New York  
20 American Water will demonstrate that it has completed  
21 those steps.

22 On July 11th, 2019 the commission  
23 approved the independent monitor's final report in an  
24 order that I will refer to as the interim order that  
25 established deliverables to improve customer service

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2 and communications. The interim order sought  
3 comments on New York American Water's interim plan to  
4 implement the report's recommendation and directed  
5 the company to meet with staff not less than 30 days  
6 after the completion of the SAPA review period or  
7 post summer review to review any comments received as  
8 well as a review of the company's performance during  
9 the summer of 2019.

10 The commission also directed the  
11 company to submit a final implementation plan to the  
12 secretary within 30 days of the post summer review.  
13 On October 31st, 2019 the company met with staff to  
14 discuss its performance and stated that due to the --  
15 its outreach efforts, primarily mailers and social  
16 media that inform customer about water conservation,  
17 high bill complaints decreased by 46 percent from May  
18 through October 2019 when compared to the same period  
19 in 2018. More specifically, a year over year  
20 comparison of complaints for July and August were  
21 reduced by 45 percent.

22 In addition, the company stated that  
23 15 percent of tier 4 customers in 2018 conserved the  
24 following year in the summer of 2019 and were not  
25 billed tier 4 rates. On January 6th, 2020 New York

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2 American Water filed its final implementation plan.  
3 The -- the company supplemented the filing on January  
4 22nd, 2020. The company's final implementation plan  
5 provides further improvements or updates to certain  
6 deliverables in 7 categories. I'll briefly describe  
7 each improvement or update.

8 First, the billing cycle proration  
9 policy. After consultation with staff, the company  
10 further tightened the proration policy in its final  
11 implementation plan to a 28 to 32 day billing cycle  
12 and states that it will be able to refine the billing  
13 cycle to a more consistent 30 to 31 day billing cycle  
14 with implementation of automatic metering  
15 infrastructure, A.M.I. The company also proposed to  
16 add language to its tariff to define its proration  
17 policy.

18 Second is the issue of high bill  
19 exceptions. In the company's supplement filed on  
20 January 22nd, it lowered the high bill exception  
21 threshold through the use of its billing program and  
22 stated that the number of notifications was reduced  
23 by 52 percent from 2018 to 2019.

24 Third is -- is complaint root causes.  
25 The company's final implementation plan provided a 6

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2 month complaint analysis for the 8 received  
3 commission complaints detailing the root cause and  
4 the actions taken to address those complaints. Most  
5 notably, the company provided customer courtesy  
6 adjustments for high bill complaints without  
7 challenging the customer positions. And reinstated  
8 customer installment plans that were defaulted  
9 because of financial hardships.

10 Fourth is the -- is budget billing  
11 impact to conservation. The company indicated in its  
12 final implementation plan that it was unable to  
13 determine if budget billing would undermine  
14 conservation efforts because it did not have a  
15 statistically valid sample of customers to conduct  
16 such an analysis. It -- it has 170 customers on  
17 budget billing out of 126,000 total customers.  
18 However, A.M.I. would allow the company to provide a  
19 future detailed analysis utilizing real time data.

20 Fifth is no contact letters. This  
21 type of letter was improved in the company's final  
22 implementation plan by adding language to inform  
23 customers where they can go to find tips for  
24 conservation measures either by visiting the  
25 company's website or contacting the company directly

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2 by phone.

3 Sixth is estimated meter read trends.

4 In calendar year 2019 the company reduced its  
5 estimated meter reads by approximately one third.

6 Seven -- seventh is the company's  
7 complaint reduction strategy. The company's  
8 supplement filed on January 22nd improved the  
9 complaint reduction strategy to include specific  
10 objectives, goals, targets and initiatives. In the  
11 draft order before you, it is recommended that the  
12 commission approve the final implementation plan,  
13 require New York American Water to file a proposal  
14 that further refines the company's billing cycle  
15 period in concert with its A.M.I. plan.

16 Require the company to file tariff  
17 amendments to effectuate the billing cycle period  
18 changes. Direct New York American Water to file  
19 periodic reports regarding billing cycle compliance,  
20 estimated reads and customer complaints. And require  
21 New York American Water to file a plan to complete  
22 the budget billing analysis with its A.M.I. plan.  
23 This concludes our presentations and we are available  
24 for any questions you may have.

25 CHAIRMAN RHODES: Thank you very much.



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2 Taken together this is a package that provides much  
3 better outcomes for New York American Water's  
4 customers. The rate of fact of postponing the  
5 levelization surcharge, the benefits in the Sea Cliff  
6 community flowing from the property transfer, the  
7 information availability flowing from A.M.I. and a  
8 responsible plan on customer service and  
9 communications not just as a matter of that's the  
10 correct way to behave although that's pretty  
11 important.

12 But as you've laid out, it actually --  
13 communications actually allow us to achieve the  
14 policies and outcomes and conservation and the like  
15 for the customers. I think this is, as I said, a  
16 good package. And I'm going to be in favor.  
17 Commissioner Burman.

18 COMMISSIONER BURMAN: Thank you. For  
19 A, B, and C, so for the 3 different items, the  
20 levelization, the A, B is the sale of the property.  
21 And then C is the implementation plan. All 3  
22 followed a proper, in my view, process in terms of  
23 making sure that there was proper notice and comment  
24 period for folks to weigh in. And also engaging in  
25 deliberate review.

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2 My -- for -- for me, I had had  
3 concerns on how the original American Water  
4 settlement came about and the process and still stand  
5 by that. However, these, first of all, 401A was  
6 outside of that settlement. It wasn't part of the  
7 settlement discussions. And B and C did flow after  
8 the fact with then proper notice and review. So I  
9 feel very comfortable voting in favor of all of  
10 these.

11 I think it's really important from --  
12 for me to explain my sort of review process, in  
13 particular, on the Item A. I was 1 of 2  
14 commissioners who voted in 2017 for the rate case.  
15 At that time, I did indicate that I was concerned  
16 about, you know, a lot of the customer impacts on  
17 that. A significant portion of that was the impact  
18 from the taxes. But since that time I think we have  
19 learned a lot of really good lessons.

20 I think it's also really important for  
21 us to look very carefully at the importance in  
22 communication. The theme really even from the first  
23 item we had to today on 301 really shows that  
24 communication with customers is really vital. And  
25 communication with sort of all stakeholders including

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2 local and state officials as well.

3 So I think that's a really important  
4 lesson and we could see in C with the implementation  
5 plan just how much the company and in particular the  
6 relevant hands on the ground staff at American Water  
7 have really been doing an incredible job of trying to  
8 engage with the customers in a way that they had not  
9 really had had to before that. And so I think that's  
10 really a significant organizational improvement.

11 It's also important and the order lays  
12 out a really clear analysis of the A.M.I. program and  
13 the importance of that for communication and  
14 engagement. But also the true prudent review that  
15 was done on that A.M.I. I think A.M.I. is not just  
16 limited to water utilities. We've had success in  
17 other utilities where A.M.I. has been instituted and  
18 there are some pending A.M.I. in other utilities that  
19 I think we need to really take a close look at as  
20 well in terms of helping from, you know, the  
21 communication aspects of it that the benefits are  
22 there.

23 Private water companies can provide  
24 crucial capital for water infrastructure  
25 improvements. In our case, we have allowed instead

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2 of just doing it through rate recovery, we allow it  
3 through, in the water cases, from the system  
4 improvement charge. That allows some flexibility and  
5 also is something that then once the charge has been  
6 paid, it goes away and it doesn't continue into the  
7 rates. So the S.I.C. can be in a very important  
8 mechanism.

9 Many water companies, both public and  
10 private, are dealing with the need for upgrading  
11 their aging infrastructure. And, therefore, these  
12 capital projects are something that can be very vital  
13 and it's very important for us to make sure that  
14 they're prudently done. I think it's a credit to  
15 both the company and our staff for looking carefully  
16 at the capital improvement projects and not just  
17 locking into what had been approved back in 2017 but  
18 really trying to be flexible in terms of what is  
19 actually needed and helping with that pathway  
20 forward.

21 And allowing that flexibility but also  
22 the prudence of not giving the money until the -- we  
23 see that the projects have been done. And also how  
24 well they've been done. And so working through that  
25 I think is important.

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2 I -- I -- I paused initially when I  
3 saw that we would be postponing the -- the  
4 levelization surcharge. It is something that is  
5 unique in these circumstances. And but for these  
6 circumstances, I would not be supportive of the  
7 postponing because I think that when we look at  
8 levelization surcharge and we look at levelizations  
9 of rates and surcharges in rate cases, it's really  
10 important that we are not sending a message that we  
11 are postponing until after the fact. The collection  
12 of those, if that means then at that time when it  
13 gets close to when that new surcharge or rate would  
14 go into effect, we would just seek to petition or  
15 have someone petition to stop that.

16 So here this is very different because  
17 this postponement is because of the unique  
18 circumstances. In particular, the -- the -- the  
19 potential future acquisition. And we are also not  
20 saying that this levelization surcharge, while  
21 postponed, means that the interest cannot accrue. It  
22 -- it will and -- and that means for the company they  
23 have some flexibility in being okay with the  
24 postponement.

25 The order also allows them to decide,

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2 you know, if they don't want to postpone this then to  
3 come in and seek rate recovery. So it gives some  
4 flexibility for some business case analysis and also  
5 working towards what makes sense for working with  
6 their customers.

7 From my perspective, this does a  
8 really good job of protecting customers and helping  
9 to have some more transition towards the increased  
10 surcharge. But it also helps the company, I believe,  
11 in also continuing to work on their implementation  
12 plan rather than have us in a situation where we're  
13 causing more friction at this time. So I think it --  
14 it's a -- it's important.

15 But it's also fair to shareholders  
16 with the ability to collect the interest and also  
17 with us looking at it for the future and looking at  
18 how that may be able to be looked at through any  
19 potential acquisition. And it also promotes our  
20 commission policies as it relates to A.M.I. customer  
21 engagement and prudent capital infrastructure  
22 investment. It's reasonable and appropriate for us  
23 to look at how this fits with other future  
24 outstanding issues that may come before us including  
25 the potential acquisition.

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2 And so for all of that, I think this  
3 is really helping us ensure that the -- the company  
4 which is working very focused on its customers. Just  
5 want to point out that it's 125 customer connections  
6 across 7 counties in southeastern New York. And  
7 these operations include approximately 1,270 miles of  
8 water mains and distribution lines. And 98 percent  
9 of those customers are in Nassau County on Long  
10 Island. So I think that's very significant and it's  
11 really important for us to be careful in our review.  
12 And I'm very comfortable that we have done that.

13 It's for all regulated water companies  
14 to ensure that the top priority is to reliably  
15 deliver safe and high quality water. I think these 3  
16 items taken together try to ensure that our oversight  
17 of that is sound. And so I'll be voting in favor.  
18 Thank you.

19 CHAIRMAN RHODES: Thank you.  
20 Commissioner Alesi.

21 COMMISSIONER ALESI: Thank you, Mr.  
22 Chairman. This is, to me, waking up from what the --  
23 what appeared to be a little bit of a nightmare a  
24 while back in a nice way. Coming out of this I'm  
25 going to support the entire proposal. We'll benefit

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2 from A.M.I. services and the data that all that  
3 provides deferring some projects, adding 7 water  
4 quality improvement projects. All of those are in  
5 the public interest along with billing cycle changes  
6 and improved customer services. Those obviously will  
7 be good for the customers but it will also make the  
8 company attractive to the purchaser.

9 With regard to the property, I think  
10 that that's a -- a great bonus as far as the sale is  
11 concerned for the people that not only live in the  
12 village but for all of the customers. And I think  
13 that's a great benefit.

14 I just have one quick question on the  
15 credit, on the billing credit. Assuming the sale  
16 actually does occur, once it does occur, when is the  
17 credit applied to the customers' bills? I didn't see  
18 it in any of our information. Is there a  
19 requirement?

20 MR. CANTY: There's not a requirement  
21 in the order, but we expect it to happen as soon as  
22 possible after -- after the sale, so.

23 COMMISSIONER ALESI: I would imagine  
24 it would. But theoretically they could drag it on  
25 for 10 years if there's no requirement, correct?



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2 MR. CANTY: Uh-huh.

3 COMMISSIONER ALESI: Okay. Thank you.

4 I'll be supporting it. Thank you.

5 THE COURT REPORTER: Is that a yes?

6 MR. CANTY: Yes, we don't expect it.

7 COMMISSIONER ALESI: Nine years.

8 CHAIRMAN RHODES: Commissioner

9 Edwards.

10 COMMISSIONER EDWARDS: I -- I'm going

11 to vote in favor of it as -- as well especially the

12 sale of the Sea Cliff. But a little bit off topic,

13 do we have any idea when the acquisition proposal

14 will be submitted?

15 MR. RIEDER: So there's nothing been

16 formally indicated to staff that when the Liberty

17 Utilities will be making that filing. I -- I

18 anticipate that it could be as early as the end of

19 February.

20 COMMISSIONER EDWARDS: Okay. And just

21 what's the process by which the staff can get

22 involved to make sure that everything and -- anything

23 and everything can be done to do something about the

24 rates?

25 MR. RIEDER: So the -- the process is

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2 the companies will file the petition and there will  
3 be a staff team developed, and we will do our due  
4 diligence to make sure that the -- if we -- if we  
5 think the acquisition is in the public interest,  
6 we'll make that recommendation. If we do not think  
7 so, we will make that recommendation that it should  
8 not go forward.

9 COMMISSIONER EDWARDS: Okay. And how  
10 long do you think that process would take then?

11 MR. RIEDER: Well, it's -- it's going  
12 -- it's going to be a process so it will probably --  
13 I would -- I would anticipate it to be 8 to 10  
14 months.

15 COMMISSIONER EDWARDS: Thank you.

16 CHAIRMAN RHODES: Thank you.

17 Commissioner Howard.

18 COMMISSIONER HOWARD: Thank you. I  
19 wonder if you could verify some issues for me  
20 regarding real property tax impacts on these revenue  
21 requirements. I understand -- it's my understanding  
22 that in Service Area 1, 31 percent of the revenue  
23 requirements is real property tax. Is that accurate?

24 MR. CANTY: That's correct.

25 COMMISSIONER HOWARD: Service Area 2

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2 is 35 percent?

3 MR. CANTY: Yes, that's correct.

4 COMMISSIONER HOWARD: And in Service  
5 Area C in the Seabrook (sic) it's 51 percent?

6 MR. CANTY: That's correct. Sea Cliff  
7 -- Sea Cliff customers pay 51 percent of their bill  
8 in property taxes.

9 CHAIRMAN RHODES: I'm sorry, Tim. Can  
10 you speak closer or more --?

11 MR. CANTY: That's correct. Sea Cliff  
12 customers pay about 51 percent of the -- the -- their  
13 bill in property taxes.

14 COMMISSIONER HOWARD: Again, with so  
15 many of our state utilities the huge and -- and  
16 sometimes predominant factor in corresponding bills  
17 and rates is the issue of locked -- local property  
18 taxes, I think any reasonable person would say 50  
19 cents on a dollar going to real property taxes, not  
20 delivery of utility services is something that could  
21 cause outrage.

22 I just hope that in the issue of  
23 transparency that customers are aware that this is  
24 the level of real property taxes that they pay not  
25 through their property tax bill but every time they

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2 pay their water bill. I think personally it's an  
3 unsustainable system and but with that being said, I  
4 will concur on this vote and quite frankly I look  
5 forward to the process of these analysis during the  
6 potential acquisition of this company.

7 CHAIRMAN RHODES: Thank you. So I  
8 will now proceed to call for a vote. As -- as  
9 advertised we'll do it one by one. Item 401A my vote  
10 is in favor of the recommendations to postpone  
11 recovery of the levelization surcharge and amend the  
12 system improvement charge projects as discussed.  
13 Commissioner Burman, how do you vote?

14 COMMISSIONER BURMAN: Yes.

15 CHAIRMAN RHODES: Commissioner Alesi?

16 COMMISSIONER ALESI: Yes.

17 CHAIRMAN RHODES: Commissioner  
18 Edwards?

19 COMMISSIONER EDWARDS: Yes.

20 CHAIRMAN RHODES: Commissioner Howard?

21 COMMISSIONER HOWARD: Yes.

22 CHAIRMAN RHODES: The item is approved  
23 and the recommendation is adopted. Now Item 401B.  
24 My vote is in favor of the recommendation to  
25 authorize New York American Water to sell the

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2 property to the Village of Sea Cliff as discussed.  
3 Commissioner Burman, how do you vote?  
4 COMMISSIONER BURMAN: Yes.  
5 CHAIRMAN RHODES: Commissioner Alesi?  
6 COMMISSIONER ALESI: Yes.  
7 CHAIRMAN RHODES: Commissioner  
8 Edwards?  
9 COMMISSIONER EDWARDS: Yes.  
10 CHAIRMAN RHODES: Commissioner Howard?  
11 COMMISSIONER HOWARD: Yes.  
12 CHAIRMAN RHODES: The item is -- this  
13 item is approved and this recommendation is adopted.  
14 And Item 401C my vote also is in favor of the  
15 recommendation to approve the final implementation  
16 plan with modifications as discussed. Commissioner  
17 Burman, how do you vote?  
18 COMMISSIONER BURMAN: Yes.  
19 CHAIRMAN RHODES: Commissioner Alesi?  
20 COMMISSIONER ALESI: Yes.  
21 CHAIRMAN RHODES: Commissioner  
22 Edwards?  
23 COMMISSIONER EDWARDS: Yes.  
24 CHAIRMAN RHODES: Commissioner Howard?  
25 COMMISSIONER HOWARD: Yes.

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2 CHAIRMAN RHODES: And this item is  
3 approved and this recommendation is adopted. Thank  
4 you. We will now move to the consent agenda and  
5 before I ask the fellow commissioners whether they  
6 wish to comment on or recuse from voting on any items  
7 on the consent agenda, I'd like to give a shout out  
8 to one specific item. Item 368, Smart Path, NYPA's  
9 investment in upgrading Moses to Adirondack. This is  
10 a noteworthy investment. It's future oriented and  
11 will go a long way to enabling the achievement of our  
12 state's energy and climate and central renewable  
13 policies reliably.

14 This is -- this is a good item. But  
15 now I will turn to my fellow commissioners and ask  
16 them, again, whether they want to comment on or  
17 recuse from voting on any items on the consent  
18 agenda. Commissioner Burman.

19 COMMISSIONER BURMAN: Thank you. Item  
20 162, which is the tariff filing to revise the gas  
21 schedule to include a provision for flexibility and  
22 accepting applications for new or additional gas  
23 service where there is inadequate supply or capacity,  
24 this is withdrawing that. My vote is no consistent  
25 with my voting record on similar gas tariffs and how

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2 I believe we need to handle gas issues in general.

3 And also because while there was a  
4 SAPA filed for the original tariff request, there was  
5 no SAPA or any secretary notice filed for the request  
6 to withdraw this tariff. And I think that should be  
7 even though it does not need to, I do believe it  
8 should have been.

9 Items 263, 264 and 265 all are  
10 petitions approving the ability for these 3  
11 particular companies to be able to provide low income  
12 service. Income -- excuse me, ESCO service to low  
13 income customers. I just note that they are -- these  
14 are the 3 I believe only ESCOs that we have waivers  
15 pending for such approval. And that currently exist  
16 I would like -- I also am not taking a position on  
17 any pending petition for rehearing on other ESCO  
18 related issues that may come.

19 I do note that I hope that we can work  
20 on helping to look at how to focus more on low income  
21 issues in the ESCO community. And then -- and I  
22 thank you for your work on that, consumer services  
23 staff.

24 And then on Item 369, which is  
25 approving the draft E.I.S. on offshore wind energy, I

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2 am going to be concurring. It's a necessary step to  
3 accept the draft E.I.S. to move forward, so I am  
4 supportive but want to share that this note in no way  
5 indicates that I take a position on the final items  
6 that may be come -- may come to us on offshore wind.  
7 Moreover, there are numerous questions related to  
8 offshore wind that I believe must be answered outside  
9 of this -- this item. And -- and perhaps even  
10 outside of P.S.C. commission proceedings itself. And  
11 I do hope that we find a path forward. Thank you.

12 CHAIRMAN RHODES: Thank you.

13 Commissioner Alesi?

14 COMMISSIONER ALESI: No.

15 CHAIRMAN RHODES: Commissioner  
16 Edwards?

17 COMMISSIONER EDWARDS: On 165, the  
18 Rochester Gas and Electric I am not going to be  
19 voting in favor of that one. They -- I understand  
20 the need for repair because it's a -- the pipeline  
21 has leak potential. But there were extensive  
22 comments that were provided by the New York State  
23 D.E.C. and Town of Wheatland. And I although in the  
24 drafting ordering clause there were some mitigations  
25 that were addressed to address the issues. I don't



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2 think that there was enough there for me to be  
3 comfortable. So especially as it relates to the --  
4 the wetlands and the route. So I won't be voting in  
5 favor on that.

6 I just want to make a comment on 263,  
7 264 and 265. I am going to be voting in favor. I  
8 just would ask that we could increase our efforts to  
9 better understand the internal customer satisfaction  
10 metrics for ESCOs. That's it.

11 CHAIRMAN RHODES: Thank you.  
12 Commissioner Howard.

13 COMMISSIONER HOWARD: I have no  
14 comments and I will be concurring on the agenda.

15 CHAIRMAN RHODES: Okay. Commissioner  
16 Phillips, are you clear on the exceptions?

17 SECRETARY PHILLIPS: I would like to  
18 just read back for Commissioner Burman, 162 is no and  
19 369 is concurring?

20 COMMISSIONER BURMAN: Correct.

21 SECRETARY PHILLIPS: And on 263, 64,  
22 65 there were just comments but you haven't indicated  
23 yet how you will vote.

24 COMMISSIONER BURMAN: Correct.

25 SECRETARY PHILLIPS: Okay. And may I

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2 also take the opportunity, Commissioner Howard, I  
3 believed on 1 of the 401 items when you were asked to  
4 comment you said you would concur. But when you were  
5 asked to vote you said yes. And I --.

6 COMMISSIONER HOWARD: Yes, I am  
7 concurring on all those items.

8 SECRETARY PHILLIPS: You said yes  
9 though. Do you mean yes?

10 CHAIRMAN RHODES: On this --

11 COMMISSIONER HOWARD: Yes.

12 CHAIRMAN RHODES: -- she's drawing the  
13 distinction put in approving and concurring.

14 COMMISSIONER HOWARD: Oh, yes. No.  
15 I'm approving.

16 SECRETARY PHILLIPS: So, yes?

17 COMMISSIONER HOWARD: Thank you. Yes.

18 SECRETARY PHILLIPS: Thank you.

19 CHAIRMAN RHODES: Thank you. So with  
20 those comments I'll proceed to call for a vote. My  
21 vote is in favor of the recommendations on the  
22 consent agenda. Commissioner Burman, how do you  
23 vote?

24 COMMISSIONER BURMAN: I vote yes.

25 CHAIRMAN RHODES: Commissioner Alesi?

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COMMISSIONER ALESI: Yes.

CHAIRMAN RHODES: Commissioner

Edwards?

COMMISSIONER EDWARDS: Yes, with the  
exception of --.

CHAIRMAN RHODES: Exactly.

Commissioner Howard?

COMMISSIONER HOWARD: Yes.

CHAIRMAN RHODES: The items are  
approved and the recommendations are adopted.  
Secretary Phillips, is there anything further to come  
before us today?

SECRETARY PHILLIPS: There is nothing  
further.

CHAIRMAN RHODES: Thank you. Thank  
you all. We are adjourned.

(Off the record 11:40 a.m.)

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Monthly Meeting - 2-6-20

STATE OF NEW YORK

I, JANET WALLRAVIN, do hereby certify that the foregoing was reported by me, in the cause, at the time and place, as stated in the caption hereto, at Page 1 hereof; that the foregoing typewritten transcription consisting of pages 1 through 51, is a true record of all proceedings had at the hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this the 12th day of February, 2020.

JANET WALLRAVIN, Reporter

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