

1 3/16/2023 - Monthly Meeting

2 STATE OF NEW YORK

3 PUBLIC SERVICE COMMISSION

4 MONTHLY MEETING

5
6 Thursday, March 16, 2023

7 10:31 a.m. until 12:41 a.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
4 call this session of the Public Service Commission to
5 order.

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

8 SECRETARY PHILLIPS: Yes, there's one
9 change to the final agenda. Item 161, which is a
10 consumer complaint has been pulled and will not be
11 considered today.

12 CHAIR CHRISTIAN: Thank you.

13 First, I'd like to conduct a roll call
14 of commissioners. When I call your name please
15 confirm that you are with us today.

16 Commissioner Diane Burman.

17 COMMISSIONER BURMAN: Present.

18 CHAIR CHRISTIAN: Commissioner James
19 Alesi.

20 COMMISSIONER ALESI: Present.

21 CHAIR CHRISTIAN: Commissioner Tracey
22 Edwards.

23 COMMISSIONER EDWARDS: Here.

24 CHAIR CHRISTIAN: Thank you.

25 Commissioner John Howard.

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2 COMMISSIONER HOWARD: Here.

3 CHAIR CHRISTIAN: Commissioner Dave
4 Valesky.

5 COMMISSIONER VALESKY: Here.

6 CHAIR CHRISTIAN: Commissioner John
7 Maggiore.

8 COMMISSIONER MAGGIORE: Here.

9 CHAIR CHRISTIAN: Thank you. We'll go
10 to the regular agenda. Our first item for discussion,
11 Item 101, Case 23-G-0083, related to the examination
12 of the installation of PermaLock Tapping Tee
13 Assemblies will be presented today by John Sipos,
14 Dave Rossi, Dennis Dibari and Michael Moll are
15 available for questions.

16 John, please begin.

17 MR. SIPOS: Good morning and thank
18 you. Following last month's order in the Brewster
19 enforcement proceeding, which was number 22-G-0425,
20 the draft order here today initiates a generic
21 inquiry concerning the use and installation of
22 PermaLock Tapping Tees.

23 During the Brewster investigation,
24 D.P.S. staff obtained information about, among other
25 things, a National Transportation Safety Board notice

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2 about potential concerns related to the installation
3 of those Tapping Tee components and their assemblies.

4 The N.T.S.B. notice describes
5 incidents involving the components that occurred in
6 Pennsylvania and Tennessee. Department Staff also
7 reviewed information about incidents in Webster and
8 Greece in addition to the Brewster matter.

9 The order here today initiates a new
10 proceeding to provide a systemic and methodical means
11 for companies to review, examine and report on their
12 use of the types of Tees described in the N.T.S.B.
13 notice. In addition, the draft order here directs
14 three things.

15 First, that the distribution utilities
16 confirm that each of them have reviewed the N.T.S.B.
17 notice.

18 Second, that each of the utilities
19 also confirms whether or not the utility currently
20 uses the Tapping Tees involved in the N.T.S.B.
21 notice.

22 And third, if the utility does confirm
23 that it uses the Tees, to quantify how many Tees are
24 currently in use in the utilities distribution
25 system.

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2 Thereafter, the Department anticipates
3 that it will evaluate each company's response in
4 order to identify follow-up steps and that the matter
5 may return to the Commission.

6 This concludes our overview of the
7 order.

8 And I'd like to thank our colleagues
9 up here, Michael Moll, Dennis Dibari, and David Rossi
10 for their dedication on this matter. And staff are
11 available for questions. Thank you.

12 CHAIR CHRISTIAN: Thank you, John.

13 The safety of our energy systems is of
14 paramount importance and the Commission has a very
15 essential and key role to ensure that public safety
16 is taken seriously.

17 And given the most recent events in
18 Brewster, as you described, I view the actions
19 outlined in this order as a prudent step to assess
20 the scope and scale of potential issues with this
21 device among regulated utilities in the State of New
22 York. Once the Department receives the required
23 information, we can assess potential future actions
24 at that time. Thank you.

25 MR. SIPOS: Thank you.

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2 COMMISSIONER BURMAN: Thank you. I
3 agree with the Chair. I think we can all agree that
4 it's important to ensure the safe operation of the
5 gas distribution system. I support this order. I
6 support the inquiry. I think it sets up a holistic
7 methodical approach and I look forward to follow up
8 on this. Thank you.

9 CHAIR CHRISTIAN: Thank you,
10 Commissioner Burman. Commissioner Alesi?

11 COMMISSIONER ALESI: Thank you, Mr.
12 Chair. I agree as well. My only concern would be is
13 -- this is a significant issue and my question
14 would be the why the utilities themselves haven't
15 initiated the things that we're about to order on
16 this, given what we know. So I'll be supportive of
17 this.

18 CHAIR CHRISTIAN: Thank you,
19 Commissioner. Commissioner Edwards?

20 COMMISSIONER EDWARDS: Yeah, I just
21 have a quick question. What are the types of
22 incidents that have occurred?

23 MR. SIPOS: As described in the
24 N.T.S.B. report, there were incidents where there
25 were -- were leaks and in -- in responding to those

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2 leaks, there was property damage. There were also in
3 -- in -- in a limited number of cases, you know,
4 personal injuries as well and those are outlined in -
5 - in the N.T.S.B. report.

6 There -- there was a fatality in the -
7 - in the Pennsylvania case in -- in Millersville and
8 I believe also in Knoxville, Tennessee.

9 COMMISSIONER EDWARDS: Okay. Thank
10 you very much.

11 CHAIR CHRISTIAN: Thank you,
12 Commissioner. Commissioner Howard?

13 COMMISSIONER HOWARD: Thank you, Mr.
14 Chairman. I strongly support this action. My one
15 admonition will be haste. Haste is probably the
16 wrong phrase, thoroughness and expedition is very
17 important.

18 I believe that once the broader
19 communities understand what is involved in here, that
20 there'll be great demand for a relatively quick
21 answer. I understand that the solution may be longer
22 lived. But at least identifying the extent of the
23 problem as quickly as possible is -- is necessary.
24 But I look forward to the next time you report on
25 this. Thank you.

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2 CHAIR CHRISTIAN: Thank you.

3 Commissioner Valesky?

4 COMMISSIONER VALESKY: Thank you, Mr.
5 Chairman. John and -- and your team, thank you for
6 the work that you've done on this item and -- and the
7 item last session that we took up in regard to this
8 specific circumstance of the Brewster incident, I'll
9 certainly be supporting this.

10 This is all -- all about safety of the
11 system. And that's certainly paramount. I do
12 Commissioner or Mr. Chairman, just want to take a
13 brief moment if I could, before we move on. We -- we
14 are only about what 36, 48 hours removed from a
15 nor'easter, and I just want to commend our Office of
16 Emergency Management here led by Kevin Wisely, and
17 certainly the utility workers across the state who
18 worked around the clock 24/7 to restore power to the
19 some 100,000 or so utility customers who lost power
20 during -- during that -- that event.

21 So thank you for a job well done for
22 everyone and anyone who played a role in -- in
23 getting us all through that recent storm. Thank you,
24 Mr. Chair.

25 CHAIR CHRISTIAN: Thank you.

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2 Commissioner Maggiore?

3 COMMISSIONER MAGGIORE: Thank you. I
4 have no questions. I agree with the Chair's
5 assessment that this is a prudent action. And John,
6 I want to thank you for keeping us apprised every
7 step of the way. I think your presentation today and
8 your prior commentary, and updates have been very
9 thorough.

10 So thank you for a job well done. And
11 thank you for your presentation. I'll be supporting
12 this as well.

13 MR. SIPOS: Thank you.

14 CHAIR CHRISTIAN: Thank you. I'll
15 bring this to a vote. My vote is in favor of the
16 recommendation to initiate the examination of the
17 PermaLock Tapping Tee Assemblies as discussed.
18 Commissioner Burman, how do you --

19 COMMISSIONER BURMAN: Yes.

20 CHAIR CHRISTIAN: -- vote?

21 COMMISSIONER BURMAN: Yes.

22 CHAIR CHRISTIAN: Thank you.

23 Commissioner Alesi, how do you vote?

24 COMMISSIONER ALESI: Yes.

25 CHAIR CHRISTIAN: Commissioner

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2 Edwards?

3 COMMISSIONER EDWARDS: Yes.

4 CHAIR CHRISTIAN: Commissioner Howard?

5 COMMISSIONER HOWARD: Yes.

6 CHAIR CHRISTIAN: Commissioner

7 Valesky?

8 COMMISSIONER VALESKY: Yes.

9 CHAIR CHRISTIAN: Commissioner

10 Maggiore?

11 COMMISSIONER MAGGIORE: Yes.

12 CHAIR CHRISTIAN: Okay. The item is
13 approved and the recommendation is adopted. Thank
14 you all.

15 We'll now move to the second item for
16 discussion. The second item for discussion today is
17 Item 102, Case 19-G-0309, related to the Brooklyn
18 Union Gas Company doing business as National Grid,
19 New York, petition regarding vaporizers 13 and 14
20 project.

21 Presented today by Brandon Goodrich
22 and Chris Stolicky. Jeff Hogan and Kevin Manz are
23 also available for questions. Brandon, when you're
24 ready, please begin.

25 MR. GOODRICH: Good morning, Chair

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2 Christian and commissioners. Item 102 regards a
3 petition filed by National Grid seeking approval to
4 recover the costs related to installing two
5 additional vaporizers known as vaporizers 13 and 14
6 at its Greenpoint Energy Center in Brooklyn, New
7 York.

8 Staff recommends that the Commission
9 deny the petition without prejudice at this time,
10 based on the finding that vaporizers 13 and 14 are
11 not needed until at least two years after the
12 timeframe noted in the petition.

13 National Grid filed this petition
14 pursuant to the process for long-term capital --
15 long-term capital capacity projects set forth in
16 National Grid's currently effective rate plan by
17 which I mean the joint proposal adopted with
18 modifications by the Commission in a rate order
19 issued in Cases 19-G-0309 and 19-G-0310 on August
20 12th, 2021.

21 I will provide an overview of the
22 review process and public input regarding -- received
23 regarding the vaporizers 13 and 14 project. And my
24 colleague, Christopher Stolicky, will provide a more
25 detailed description of the project. The analysis

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2 conducted by P.A. Consulting Incorporated or P.A.,
3 and staff's recommendations in the draft order before
4 you.

5 The rate plan identified certain long-
6 term capital capacity projects, including vaporizers
7 13 and 14 project that were excluded from rate base
8 but made subject to an additional process to be
9 initiated by a petition filed by National Grid.

10 National Grid initiated that process
11 with respect to vaporizers 13 and 14 by filing its
12 petition on August 29th, 2022. Per the process
13 established in the rate plan, the vaporizer project
14 was subject to opportunities for public input, as
15 well as an engineering analysis conducted by a
16 consultant independent of National Grid, in this
17 instance, P.A.

18 The process established under the rate
19 plan is to culminate in the Commission's
20 consideration of whether the project is needed and
21 whether to allow National Grid to recover the cost of
22 the project through the demand capacity surcharge
23 mechanism, or D.C.S.M.

24 The rate plan specifies that this
25 determination is to be based on whether the project

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2 is required to meet design day demand, demonstrated
3 three reasonable forecast of peak customer demand.
4 In our presentation today, this means a forecast of
5 customer -- customer demand on a day in which the
6 average temperature in New York City is zero degrees
7 Fahrenheit.

8 The rate plan also specifies
9 consideration of other criteria, including among
10 other things, whether there are alternatives that
11 could meet any forecasted need in the required
12 timeframes for a lower all-in cost, and any safety
13 and/or reliability benefits of the project.

14 Further rate plan costs recovering may
15 be denied if the Commission determines the project is
16 not needed by the need date specified in the
17 petition.

18 Finally, the rate plan provides that
19 if cost recovery for a project is denied, National
20 Grid can propose the project again in a future rate
21 or other proceeding based on changed circumstances or
22 other sufficient bases.

23 Once National Grid filed this petition
24 in this case, the secretary issued a notice inviting
25 comments and announcing public hearings. The

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2 Department also published notice of the petition in
3 the state register. The Department held four public
4 statement hearings, two virtual and two in-person in
5 the vicinity of the Greenpoint Energy Center.
6 Approximately 60 oral comments were received.

7 Additionally, approximately 1500
8 written comments from the public have been received.
9 Formal comments were also submitted by Earth Justice
10 and Environmental Justice Clinic on behalf of Sane
11 Energy Project and Alliance for Green Economy, All
12 Our Energy before New York Law School Legal Services
13 Incorporated and the National Center for Law and
14 Economic Justice, New York Energy -- New York
15 University School of Law's Center on Race Inequality
16 and the Law.

17 The commenters almost uniformly
18 opposed the vaporizer 13 and 14 project. Overall
19 comments are stated that the project is not needed,
20 that the project is inconsistent with the Climate
21 Leadership and Community Protection Act's greenhouse
22 gas emissions targets and that the project will add
23 to the cumulative burden on the surrounding
24 environmental justice and disadvantaged community.

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2 In addition to the comments opposing
3 vaporizers 13 and 14 project, several comments also
4 expressed concerns with a wholly separate and
5 unrelated earlier pipeline project of National
6 Grid's, the Metropolitan Reliability Infrastructure
7 or M.R.I. project, including that phases one through
8 four of the M.R.I. project were not tested prior to
9 being placed in-service.

10 While not relevant to the vaporizers
11 13 and 14 project, the order before you states
12 unequivocally that phases one through four of M.R.I.
13 were indeed tested as required by the Commission's
14 regulations prior to being placed in service.

15 Staff for the Department -- staff of
16 the Department's Pipeline Safety section certified
17 that the pipeline passed the required strength tests.
18 And the pipeline was constructed and is operating in
19 a safe manner.

20 I will now turn this presentation over
21 to Chris Stolicky.

22 MR. STOLICKY: Thank you, Brandon.
23 The project is related to the existing Greenpoint
24 Liquefied Natural Gas or L.N.G. plant. L.N.G. is a
25 non-pressurized cryogenic liquid stored in two

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2 existing tanks on the site where it remains a liquid
3 until gas is needed to support system demand, usually
4 to help meet customer demand load in cold weather but
5 can also serve as an on-system supply source in
6 emergency situations. The L.N.G. stored in the
7 existing tanks is created on-site generally during
8 the summer months. The vaporizers are the equipment
9 that warms the liquid into its gaseous state in
10 preparation for injecting it into National Grid's
11 existing gas system.

12 There are currently six vaporizers at
13 Greenpoint. Three of the vaporizers are low-pressure
14 that inject natural gas into National Grid's 60
15 pounds per square inch gauge system. Three are high-
16 pressured that inject gas into its 350 pound system.

17 All three of the low-pressure
18 vaporizers can run at one time. While only two of
19 the high-pressure vaporizers can run with a spare
20 unit available for backup or operations and
21 maintenance. The project would add two additional
22 low-pressure vaporizers.

23 Up to four of the low-pressure
24 vaporizers could run at the same time, leaving one
25 for backup. The current supply capability of the

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2 L.N.G. plant is approximately 291,000 dekatherms per
3 day, or about 10.4 percent of the design day demand
4 for National Grid's downstate territory.

5 Vaporizers 13 and 14 would increase
6 the supply capacity to 350,000 dekatherms per day, or
7 about 12-and-a-half percent of design day demand.
8 Per the petition, the project would be constructed by
9 the winter of 2024-25. So that it would be up and
10 running under the proposed need date, which is the
11 winter of 2026-27.

12 Importantly, there would not be any
13 additional storage capacity added to the facility.
14 The project would simply allow National Grid to use
15 the existing supply capacity at a more rapid rate.
16 In the petition, National Grid projected the costs
17 related to installing vaporizer 13 and 14 project,
18 will be approximately \$70,000,000. Through November
19 of 2022, National Grid incurred 49.3 million.

20 This includes approximately 10.5
21 million in design, engineering and permitting costs
22 as well as the costs of the consultant's review.
23 P.A.'s primary analysis was to examine whether the
24 project is needed to meet a reasonable forecast of
25 design day demand. P.A. also conducted a review of

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2 National Grid's supply stack, since supply must meet
3 demand to maintain reliability.

4 In its report, P.A. found that
5 National Grid's proposed supply stack did not include
6 peaking supply contracts that will come up for
7 renewal over the next few years. P.A. noted several
8 of these contracts should be considered low risk due
9 to their nature with cogeneration plants and the
10 historical relationship National Grid has with the
11 parties.

12 P.A. also noted that National Grid
13 excluded a compressed natural gas or C.N.G. facility
14 to be located in Farmingdale that is expected to come
15 online for winter 2024-25. Finding no basis to
16 exclude the supply resources, P.A. recommended adding
17 them to the supply stack, which would extend the
18 expected design day forecast need by winter to 2027-
19 28.

20 Next, P.A. reviewed National Grid's
21 design day forecast. Notably in the petition,
22 National Grid acknowledged the design day forecast in
23 2022, which reflected a 5.2 percent decrease over the
24 same forecast performed in 2021.

25 However, rather than using the 2022

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2 forecast, National Grid developed forecast scenarios
3 that included economic and policy factors over the
4 previous three-year period. P.A. adjusted National
5 Grid's forecast to incorporate the implications of
6 the changing socio-economic environments for the
7 Downstate natural gas market.

8 P.A.'s analysis took into account both
9 a significant decrease of projected design day demand
10 per National Grid's most recent 2022 forecast. In
11 what P.A. viewed as reasonable trends in the economy
12 and the latest forecasts from Moody's Analytics,
13 further lowering the 2022 baseline another one
14 percent.

15 Based on both its adjustments to the
16 forecast of design day demand and the supply stack,
17 P.A. concluded that the project is not needed for the
18 winter of 2026-27. Instead, P.A. found that absent
19 any additional supplies coming online, vaporizers 13
20 and 14 would not be needed until the winter of 2028-
21 29.

22 As required by the rate order, P.A.
23 also reviewed several criteria associated with the
24 vaporizer project. With respect to reliability, P.A.
25 noted that vaporizers 13 and 14 would provide a

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2 backup low-pressure unit, which can allow for
3 maintenance and assist in unplanned vaporizer
4 outages.

5 P.A. also noted that there would not
6 be any change to the footprint of the facility,
7 interconnection or L.N.G. storage capacity. As for
8 alternatives to the vaporizers, P.A. examined the
9 Clove Lakes uprate project, which would be a new
10 pipeline across Staten Island as well as existing
11 programs related to demand response, electrification
12 and energy efficiency.

13 P.A. concluded that the Clove Lakes'
14 pipeline is not a viable alternative in National
15 Grid's existing demand-side management programs,
16 while having the potential to decelerate demand, or
17 not having a material impact on the demand in the
18 short term.

19 National Grid raised several arguments
20 in response to the recommendations made in P.A.'s
21 report. For example, National Grid stated that P.A.
22 should have considered that demand can change
23 quickly. It further argued, the vaporizer project
24 should be reviewed against the design day demand
25 forecast when the vaporizer was initially proposed,

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2 which was the winter of 2019-2020.

3 Note, the joint proposal and the rate
4 plan clearly stated the most recent demand forecasts
5 should be used in the analysis. Finally, National
6 Grid stated that peaking contracts have availability
7 concerns and cost risks, and C.N.G. injection
8 facilities may not be reliable depending upon the
9 impact of a cold weather event on C.N.G. tanker
10 trucks being able to safely navigate City and Long
11 Island railways -- roadways. Excuse me.

12 The draft order before you would deny
13 the petition without prejudice based on the finding
14 consistent with the recommendations made by P.A. that
15 the vaporizers 13 and 14 project is not needed to
16 meet a reasonable forecasts of peak demand in winter
17 2026-27.

18 The draft order nevertheless
19 recognizes that the project may or may not be needed
20 after the winter of 2026-27 timeframe depending on
21 whether supply resources come online and National
22 Grid's energy efficiency and demand response program
23 is sufficiently mature.

24 Thus, the draft order exhorts National
25 Grid to redouble its efforts to energy efficiency and

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2 other demand-side management programs to further
3 delay or entirely avoid the need for the project. It
4 also recognizes that National Grid may decide to
5 propose a project in a future rate filing, or
6 separate petition based on the need for the project
7 to meet demand, notwithstanding National Grid's
8 appropriate efforts to reduce demand through energy
9 efficiency and other demand-side management efforts,
10 or with sufficient justification of a reliability or
11 safety needed for the project.

12 Finally, with regard to costs, the
13 draft order would authorize National Grid to recover
14 approximately 10.5 million dollars in design,
15 engineering, permitting and consulting costs through
16 the D.C.S.M., and to continue to account for the
17 remaining project cost as part of construction work
18 in progress.

19 The Commission would be able to
20 address the remaining project costs and any
21 associated cost recovery in a future proceeding once
22 it is known whether or not the project would
23 ultimately be constructed and placed in service.

24 Thank you.

25 This concludes our presentation today.

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2 We are available to answer any questions you may
3 have.

4 CHAIR CHRISTIAN: Thank you, Brandon
5 and Chris, for your presentation today. I have a
6 question for you regarding the forecast. So you said
7 the -- the forecast has changed. Can you -- can you
8 amplify and clarify when you say changed, do you mean
9 our gas use has declined?

10 MR. STOLICKY: The expected gas demand
11 has declined -- the forecasts for the expected gas
12 demand has declined 5.2 percent according to National
13 Grid between their forecasts in 2021 and 2022.

14 CHAIR CHRISTIAN: But gas use is not
15 actually projected to go down. Total gas use?

16 MR. STOLICKY: No, it is -- it is not.

17 CHAIR CHRISTIAN: Okay. Thank you. I
18 think that's an important point.

19 MR. STOLICKY: I -- I think the point
20 to make is that there -- there was a step change
21 lower due to changes in the downstate market,
22 primarily due to the pandemic. But going out from
23 now through '29 and beyond, there is still growth in
24 -- in gas demand.

25 CHAIR CHRISTIAN: So we're continuing

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2 to use more natural gas just not at the rate
3 originally projected in that earlier forecast?

4 MR. STOLICKY: It is both the rate but
5 we also start at a lower number because there was
6 demand destruction from the pandemic.

7 CHAIR CHRISTIAN: Got it. Thank you
8 for clarifying that point. Okay. So thinking back
9 to 2019, when the need for this project was first
10 established as you've mentioned, the forecast at the
11 time has since changed from then to today for a
12 variety of reasons.

13 But ultimately, we're still using more
14 natural gas year over year, regardless of the change
15 in the forecast. And for that reason, the need for
16 this project, though not for the '26-27 year
17 originally proposed is now projected to be 2028-2029.
18 This need continues to grow at the pace forecasted.
19 We may be looking at this project again in the
20 future.

21 In recognition of this fact, the draft
22 order before us today discusses how best to manage
23 where we are right now, while examining what we may
24 need to consider in the future. So what's up for
25 discussion today is not whether to terminate or

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2 approve this project, but how the utility should be
3 allowed to account for the expenditures of this
4 project to date, and how we may look at this project
5 in the future.

6 So thank you for your presentation.
7 Looking forward to further discussions on this as I'm
8 sure we'll have.

9 Commissioner Burman?

10 COMMISSIONER BURMAN: Thank you so
11 much. I -- I am confused. I'm going to ask a couple
12 of questions. It's not intended to be got-ya. It's
13 really intended to clarify for my own confusion.

14 Today, we're denying without prejudice
15 the petition but leaving the door open for the
16 company to come back. And we're denying it based on
17 from hearing it -- based on the forecast analysis the
18 P.A. report did, which was if I'm hearing from Mr.
19 Stolicky, there is an understanding that that
20 forecast is just a forecast, it doesn't mean that it
21 is you know, capturing -- is capturing a moment in
22 time and that -- that new forecast that was done was
23 done within the realm of COVID, and the decline at
24 the time, pursuant to COVID. But that we do prove --
25 we do see that gas demand will be stable and

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2 increase.

3 Is that what I'm hearing? And -- and
4 again, I'm not looking to do a got-ya. I'm really
5 just trying to understand the sort of delicacy of the
6 forecast and what that means going forward.

7 MR. STOLICKY: I'll make sure I answer
8 the -- the question you're asking. The demand
9 forecast shifted lower due to the pandemic but there
10 is still growth going forward.

11 COMMISSIONER BURMAN: Okay.

12 MR. STOLICKY: Based on the analysis
13 of -- of what P.A. determined to be a reasonable
14 design day forecast, the project would not be needed
15 for additional two years. Plus, it would allow time
16 -- more time for demand-side management programs to
17 mature over that time, and possibly further delay the
18 need for this project even further.

19 COMMISSIONER BURMAN: Okay.

20 MR. ROSENTHAL: Can I just add one
21 more point? Because I read the reports last night.

22 The big issue that occurred in 2022
23 was the Ukraine war and that was not considered in
24 2021 because it hadn't started yet.

25 And so that was a big consideration in

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2 changing the slope moving forward. Because last
3 year, with supply chain issues and inflation, growth
4 was projected to -- to not be in line with what was
5 projected in 2021.

6 COMMISSIONER BURMAN: And you're
7 saying this for what rationale? I'm just trying to
8 connect the dots here.

9 MR. ROSENTHAL: That's the basis for
10 National Grid and P.A.'s determination to kind of
11 decrease the slope of the demand -- of the design day
12 demand.

13 COMMISSIONER BURMAN: The forecast?

14 MR. ROSENTHAL: Correct.

15 COMMISSIONER BURMAN: Okay. Which is
16 what we're basing our potentially decision on?

17 MR. ROSENTHAL: Correct.

18 COMMISSIONER BURMAN: Okay. Thank
19 you. So with that -- and thank you -- both of you
20 for clarifying that. Can you also share what the
21 legal review for the Commission is under this
22 scenario?

23 MR. ROSENTHAL: Sure. So the
24 Commission has to look at the administrative record.
25 Its decision must be based on the record. The order

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2 before you, which, you know, would deny the permit
3 with prejudice to refile, the Commission must
4 determine if that is reasonable based on the record,
5 based on the standard of review, which -- which was
6 specified in the rate order that Mr. Goodrich just
7 established for you. Which is basically, it needs to
8 be based on what the design day is projected to be
9 moving forward.

10 And in addition, you have your really
11 overriding obligation under Section 65(1) of the
12 Public Service Law, which requires that the
13 Commission ensure that gas service is safe and
14 adequate, and at just and reasonable rates.

15 COMMISSIONER BURMAN: Okay. Great.
16 Thank you. So I agree with your legal review
17 standard. I do think that we should be looking
18 whether the findings in the draft order are
19 reasonable based on the review criteria specified in
20 the rate order. And I also agree that within that
21 the Commission has an obligation under 65 -- Section
22 65(1) to maintain safe and adequate service at just
23 and reasonable rates. And I understand that we're
24 limiting our review to forecasting design day demand
25 based on the joint proposal and the rate order.

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2 The disconnect I have is that when we
3 are looking at the record and when we are looking at
4 what is reasonable, and we have this layer of
5 ensuring safe and reliable service, we can and should
6 be looking at what exists in the matter record fully
7 as part of the petition, and what's in the record and
8 is otherwise available to the Commission for review
9 the administrative notice, the information that we
10 have, that is from the expertise of staff that
11 informs their analysis when they're reviewing it.

12 Here, we have chosen instead to take a
13 snapshot, the P.A. report as the justification to not
14 approve the petition today but we're not denying the
15 petition. It's denying without prejudice, so this
16 will likely come back to us in the future.

17 And I do agree that design day is
18 probably the right method to look at. The question
19 for me that should be analyzed is will the system
20 hold at the design day temperature? If there's a
21 hiccup on the interstate system, on a design day,
22 example, compression outages, what happens?

23 I'm no expert. But I think that the
24 recent history, especially looking at Christmas
25 timeframe 2022, shows that the system almost

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2 collapsed well above design day. Because there were
3 multiple concerns on the transmission system.

4 It is apparent to me we are not
5 prudently allowing a cushion to be built into the
6 system. Perhaps better stated, this is because of a
7 lack of allowed reinforcement of the system that the
8 cushion no longer exists.

9 Now, if we granted the vaporizers, it
10 allows the gas that goes into the low-pressure system
11 to be sent elsewhere on the system. It -- it -- it
12 -- it may not have solved this winter's issue but it
13 does allow an ability to move ever so slightly to be
14 going elsewhere and divert it.

15 So who is responsible going forward,
16 if there are outages if we're supplanting the
17 utilities need -- determined need for them for this
18 system, for the vaporizers.

19 Now, folks do from time to time trying
20 to blame the interstate pipes for compressor outages.
21 And it's not a lack of supply, it's compressor
22 outages. Okay. But the current supply is highly
23 predicted on the system, interstate supply side,
24 working as designed.

25 We all should know that when needed

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2 most, that is not always the case. Compressors
3 working full bore for extended periods of time is not
4 what was intended when designed. Doing so can make
5 them overheat, shut down, and they may get severely
6 damaged by doing so.

7 So it comes back to me if we have
8 knowledge of not having that cushion, when we haven't
9 even gotten to design day temperatures, we have a
10 responsibility to not roll the dice in taking the
11 chance on a design day temperature issue. We should
12 understand that.

13 Now, the thing I -- I -- I think I'm
14 grappling with is that, when we're relying on the
15 review from the rate order, in that rate order which
16 was unanimous, while we required additional process
17 and additional steps, we also identified that the
18 Greenpoint L.N.G. project was necessary as safe and
19 reliable service.

20 We did that in the rate case decision.
21 So the question really isn't about is it needed. The
22 question is really, when and what's the cost, and
23 what do we do. Now, the issues when I look at it
24 from the P.A. Consulting report is, it has a lot of
25 very nuanced parameters to give the results that it

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2 may not be needed, it's not needed in the timeframe
3 that the company suggested.

4 But when you look at that report, I
5 think it was about 98 pages, and I did read it
6 several times, not just last night. There are a lot
7 of what-ifs. There are a lot of qualifiers. And it
8 is not, as I think some have suggested, that they are
9 saying it's not needed at all. They are just saying
10 it's not perhaps under their forecast, again, which
11 is a snapshot. And we understand that that forecast
12 based on the information we have is perhaps now stale
13 because it doesn't take into account the future and
14 going forward.

15 So I'm grappling with why we've chosen
16 to only use the P.A. report as the be-all and end-
17 all. Now, there was a response from National Grid to
18 that P.A. report and in that, one of the things that
19 -- a couple of things that -- that the company
20 highlighted, they focused on the fact that P.A.
21 should consider that demand can change quickly,
22 example COVID and subsequent economic impacts. I
23 think -- my understanding is that we recognize that
24 that is a legitimate concern. Is that not true?

25 MR. GOODRICH: Yes, that's why the

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2 draft order before you recognizes that the company
3 can come back if need be.

4 COMMISSIONER BURMAN: Okay. Right.
5 So we recognize that. We say that they should we
6 should track their efforts. And we should look to
7 helping them further reduce demand, and, you know,
8 ensure that we're watching it.

9 We're willing to be on the edge of
10 that risk. We're willing to be up there at what
11 point -- what's the process for them to come back?

12 MR. GOODRICH: They -- National Grid
13 could either include it in a future rate proceeding
14 or could file a separate petition seeking -- seeking
15 authorization for cost recovery as well.

16 COMMISSIONER BURMAN: So it's
17 uncertain. They can do it in a future rate case, go
18 through that process, which isn't going to be done at
19 anytime soon. They could file their own petition,
20 they could file frankly tomorrow and come back. They
21 could look to the gas planning proceeding. Or they
22 could do nothing and things don't work, just
23 institute more moratoriums.

24 Is that what we're suggesting? So
25 have we looked at -- the P.A. report doesn't look at

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2 what does it look like. Are we -- you know, we've
3 had past history where moratoriums have happened that
4 continues to exist. And we've then reacted to that
5 negatively because of customer concern on the
6 moratoriums.

7 We know that demand could change
8 quickly. What are the economic development potential
9 opportunities in that -- in that utility's footprint
10 that may not be able to happen if we don't have
11 access to gas?

12 Now, the company also argued that the
13 forecast should be reviewed -- the project should be
14 reviewed against the forecast of demand available
15 when the company initially proposed it. I look at it
16 a little bit broader, because our review is based on
17 forecasting design day demand based on the rate
18 order. But it doesn't mean we just look to the P.A.
19 report.

20 We have to understand where that
21 report and that analysis fits in. We have to look to
22 the forecasting. There's been several different
23 forecasts. We should be able to globally look at all
24 of them and project out what we're already seeing is
25 that gas demand is going to increase and recognize

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2 that.

3 And so today, we should be clearer in
4 exactly what we want when, and the next steps. Not
5 just we're going to watch you. Not just that come if
6 you want, hopefully, you'll, you know, do more demand
7 response and so for me, I want to see a little bit
8 more specific certainty. So that everyone, all
9 stakeholders, whether they're supportive or not
10 understand that.

11 Now, this record, has a lot of
12 process. Has a lot of public statement hearings, has
13 a lot of forums, has a lot of engagement. Are we
14 going to expect that same amount even if we see that
15 there's an issue? Are we going to say based on the
16 record that we already have, and based on the need
17 and the risk that's there, we're not going to make
18 them go through the same hoops? Because we've
19 already in the rate order said that the project was
20 necessary for safe and reliable service.

21 We're not changing that. That should
22 be clear, that should be understood. We should
23 actually be looking for certainty for the fact that
24 they might need to ensure that they have capital for
25 the project, that they need to ensure supply chain

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2 issues, that we're giving them certainty now that we
3 understand that this, if there is a need sooner than
4 P.A. is saying, we're going to move quickly so it's
5 approved quickly.

6 We should be sending a signal to
7 D.E.C. that today's decision is not a denial. It is
8 a denial without prejudice and, in fact, we believe
9 strongly that reliability is paramount. So D.E.C.
10 which has -- which deferred their decision making
11 till after we acted understands specifically what we
12 are saying.

13 Now, the company also was concerned by
14 P.A. putting back in other alternatives that were not
15 in the forecasting from the company. Some of those
16 alternatives the opponents don't want either. So we
17 are also recognizing that we are supplanting some of
18 that as well.

19 The company also said in its response,
20 that P.A. failed to fully consider safety and
21 reliability benefits. I think the company is right.
22 I think that there are potential safety and
23 reliability benefits. I think that that's why we
24 came in the rate order and said that the project as
25 -- was necessary for safe and reliable service. And

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2 I think that we should have focused on that.

3 Part of the difficulty is that P.A.
4 was trying in a very nuanced way to fit into a very
5 specific context and came out saying, well, it may
6 not be necessary if all these other things are done
7 within the timeframe that the company says. They
8 left out the pages that said what would happen if
9 those things didn't come to fruition.

10 What's the obligation? Are we willing
11 to risk that? Plus, while the company says it can be
12 done, at the time that they submitted this, in 18
13 months, once approved, there's a lot of steps that
14 have to get done. We are probably behind the eight
15 ball, even if we need it at a later timeframe.

16 And so we see the challenges with
17 going through some of those approval processes, we
18 see the challenges, the -- the waiting has already
19 increased the costs from the supply chain side. It
20 may -- may be prudent of us to consider that.

21 P.A. also didn't consider the cost of
22 some of those alternatives, and also whether or not
23 some of those alternatives would actually not be
24 focused on reducing emissions if we're keeping people
25 on oil instead, et cetera.

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2 I have thought long and hard about
3 this. I respect where everyone is coming from. But
4 I'm really concerned that this decision tries to
5 delay in a way that actually isn't giving any
6 certainty or comfort to anyone. And I think that is
7 a problem.

8 One of the things that I was struck
9 also by was that P.A. focused on the public input,
10 which I think is fair, except P.A. focused on that
11 there was nearly unanimous negative feedback from
12 residents and public officials, and the record has
13 mostly opponents to this. That was the same in the
14 rate order as well.

15 The opponents have been consistent in
16 their opposition. So for me, considering the record,
17 that just doesn't make it for me like so therefore,
18 we should delay. We've already spoken and addressed
19 that issue.

20 In the draft order, it says that one
21 of the entities who is opposed referred to the
22 company's initial filing as an effort to roll the
23 dice and see what they can make stick under the guise
24 of the nonsense safe and reliable banner that should
25 already be opposed by the regulators.

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2 That is absolutely not correct because
3 we do not believe that our safe and reliable mandate
4 is nonsense. We should be very firm and clear that
5 safety and reliability is paramount. And we will not
6 roll the dice and take that risk.

7 I believe there's a strong need for
8 fuel diversity as we focus on decarbonization. I
9 believe we need multiple resources to play a role in
10 our state's overall energy future as we seek to lower
11 emissions. I do thank the staff team for your work
12 on this order and on the 2019 rate case that this
13 order stems from.

14 I do believe it is a very hard place
15 for staff to be in trying to thread the needle. And
16 I believe you do an enormous amount in trying to do
17 that in a way that doesn't jeopardize our safety and
18 reliability.

19 However, I think we need to have more
20 leadership in letting you know that we are pushing
21 you further on being more on the end of not throwing
22 -- not risking safety and reliability.

23 As is the case with every decision
24 that comes before this commission, we must look at it
25 through that lens of our mandate to ensure that

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2 consumers receive safe and reliable utility service
3 at just and reasonable rates, and with the least
4 adverse effect upon the environment.

5 This draft order tries to hit on every
6 aspect of our mandate, and particularly on the issue
7 of safe and reliable service. The project and the
8 decision before us today is one of many hard
9 decisions that are going to come with regard to gas
10 infrastructure and the necessary investments we will
11 have to make to continue to maintain safe and
12 reliable service to the customers the utility serves.

13 As you know in 2021, I voted in favor
14 of the rate case, which established this process for
15 additional review of certain identified long-term
16 capacity projects, including a review by the
17 independent consultant P.A. to assess the need for
18 each of these projects to meet a reasonable forecast
19 of customer's peak demands and other considerations.

20 Another separate decision recently
21 came before the Commission in July of 2022. For the
22 Southeast Suffolk project, additional review process
23 worked for the Southeast Suffolk project and I voted
24 to support it.

25 In this project, P.A. Consulting

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2 hinged its assessment on the updated demand
3 forecasts. They concluded in a very nuanced way with
4 a lot of caveats and a lot of what-ifs that this
5 changed forecast likely pushed out the need to -- the
6 -- the need date for the project by several years.

7 We should do more analysis based on
8 what's already in the record, based on what we've
9 said at session today on the understanding of the
10 future need. So now we're presented with the P.A.
11 assessment that the need for this project is now
12 further out in the future.

13 I don't understand the conclusion
14 reached in the draft order. I don't understand why
15 we are limiting it to the P.A. report. I believe we
16 should look at the situation more holistically and
17 consider the reliability benefits these projects can
18 provide to serve as a contingency for other potential
19 system reliability needs, not just peak demand.

20 I also do recognize that several
21 commenters have raised concerns about the project's
22 compliance with the Climate Leadership and Community
23 Protection Act including the risk of increasing
24 emissions and disproportionately burdening
25 disadvantaged communities.

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2 It is important to note that it was
3 not long ago that the State and New York City climate
4 policies advocated for rapid expansion of the gas
5 system to reduce emissions associated with heating
6 oil and propane use, and it worked.

7 The transition of customers from those
8 fuels to natural gas, resulting in significant
9 reductions in greenhouse gas emissions and associated
10 health and air quality benefits. That's not just my
11 opinion, that's fact.

12 These projects would seek to help
13 improve the reliability of gas service to the same
14 customers that commenters are noting the projects
15 would negatively impact. We are now in the midst of
16 a rapid transition to meet the requirements set forth
17 in the Climate Leadership and Community Protection
18 Act.

19 What I support is a reasonable and
20 prudent focus and efforts to comply with it. We have
21 to balance our statutory obligations, and we cannot
22 roll the dice and risk safety and reliability. That
23 is why I vote on the side of system reliability and
24 the imperative to avoid widespread outages during
25 winters, and perhaps increase moratoriums.

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2 It is a prudent course of action from
3 a reliability and environmental standpoint, we must
4 err on the side of reliability here. We must
5 continue to ensure the safety and reliability of the
6 gas system as well as the electric system as we
7 continue our efforts to deliver on state policy
8 objectives.

9 Sacrificing the reliability of one
10 will jeopardize our ability to ensure the successful
11 growth and expansion of the other. I cannot vote in
12 favor of this denial of the petition without
13 prejudice because it is doing nothing except delaying
14 what we need to do, which is to approve the project
15 without delay. Thank you.

16 CHAIR CHRISTIAN: Thank you,
17 Commissioner. And I'd like to add to our guests,
18 please keep commentary towards the end. We're
19 getting some feedback that it's coming through pretty
20 loudly, so. Thank you.

21 MR. ROSENTHAL: Let me just -- let me
22 just address very quickly just to clarify the record.

23 The -- the draft order before you is
24 an independent analysis of staff. It does,
25 obviously, consider P.A.'s report but it's ultimately

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2 an independent analysis of staff and your own
3 independent analysis.

4 CHAIR CHRISTIAN: Thank you. We're
5 going to move on to Commissioner Alesi.

6 COMMISSIONER ALESI: Thank you,
7 Chairman.

8 Chris, could you just very quickly
9 touch on your comments on design cost recovery as
10 part of this? Was there -- were there any elements
11 in there? Any considerations for design cost
12 recovery on this -- this project?

13 MR. STOLICKY: Yes. The language and
14 the rate plan allowed for National Grid to recover
15 approximately 10.5 million dollars that covers the
16 design, engineering, permitting and consultant costs.

17 COMMISSIONER ALESI: There is an
18 element there -- this is for the record. That's --
19 that's why I'm asking you. So there is an element in
20 there for cost recovery?

21 MR. STOLICKY: For those items I -- I
22 just mentioned --

23 COMMISSIONER ALESI: For those --

24 MR. STOLICKY: -- yes.

25 COMMISSIONER ALESI: -- for those

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2 items. Okay. Thank you.

3 MR. STOLICKY: Yes.

4 COMMISSIONER ALESI: So based on that,
5 and based on the fact that the report cites no
6 immediate need, and the fact that it doesn't preclude
7 them from coming back and pursuing this at another
8 time in the future, I'm going to support the
9 initiative. Thank you.

10 CHAIR CHRISTIAN: Thank you,
11 Commissioner.

12 Commissioner Edwards.

13 COMMISSIONER EDWARDS: So I look at
14 this a little bit different. There -- we have huge
15 projects ahead of us with the C.L.C.P.A. and we have
16 to depend on everyone to have integrity, to be
17 forthright to give us -- give us their best advice
18 and counsel, and to be good partners.

19 And what my concern is, is that why
20 did National Grid not use all of the information that
21 P.A. provided to us? Why is that? So we have
22 opponents correct that provided information to us
23 that said, we don't need it at all. And it's our job
24 to try to balance to see what is it that we need to
25 do now for safe and reliable service while we turn

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2 this big ship towards C.L.C.P.A. So my concern is a
3 couple of things. In here it says that National Grid
4 proposed supply stack did not include peaking supply
5 contracts that will come up for renewal over the next
6 few years. Why?

7 It also says that National Grid
8 excluded a compressed natural gas facility to be
9 located in Farmingdale that is expected to become
10 online in 2024-2025. Why?

11 It also, which was just talked about,
12 did not include the most recent forecast. Why? So I
13 -- we can't -- you know, we have to be able to make
14 decisions based on every organization, company,
15 utility, consultant, giving us the best information
16 that they have. And my concern is, why did we need
17 to have an independent consultant with our staff,
18 find all of these things that were not included? Why
19 didn't National Grid provide and include all of this
20 information? Because if they did, then it looks to
21 me that it is -- it supports the fact that we didn't
22 need this now. We didn't need it when they said we
23 were going to need it. If -- if they used all this
24 information, is it accurate that the data would have
25 supported that while we may not -- while we may have

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2 needed it in the future, we would not need it when
3 they said that they -- that we were going to need it.
4 Is that -- is that accurate? If they had included
5 all of this information, then it looks to me that
6 although we would need it sometime in the future, we
7 would not need it now. And it is possible, possible
8 that if we do all of the energy efficiency, and if we
9 do everything that we can, possibly we wouldn't need
10 it at all. I -- I guess I'm struggling with why --
11 why didn't they use all of this information?

12 Did they provide any rationale to you?
13 I mean, I hear -- I see their response. I read the
14 response. I get it. But was there a conversation
15 between the -- the two, P.A. Consulting and our staff
16 and National Grid on why didn't they use all of those
17 things? Why did they omit information? Why didn't
18 they use the most recent forecast? Did they provide
19 any rationale for that at all?

20 MR. GOODRICH: I think that the
21 rationale they provided wasn't in their response. In
22 their response to the P.A. report that's part of the
23 record.

24 COMMISSIONER EDWARDS: What -- what do
25 you mean? They didn't -- what do you mean?

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2 MR. GOODRICH: They explained --
3 National Grid explained its position in its response
4 to the P.A. report that it filed in the record in
5 this -- in this proceedings.

6 COMMISSIONER EDWARDS: Yeah, but
7 they're not -- but -- what I'm saying is they -- they
8 provided -- the response that they gave was that
9 things change rapidly. I get that part of it. But
10 what I'm -- what I'm asking you is P.A. Consulting
11 provided our team specific things that National Grid
12 did not include in their analysis. And I guess my
13 question is, when it was pointed out to National Grid
14 that they did not include these three items, what was
15 their response to that?

16 MR. GOODRICH: We didn't have any
17 separate conversations like where it was -- where it
18 was seeking their private motives.

19 COMMISSIONER EDWARDS: Okay. Okay.
20 Well, that's -- that's where I am. I -- I -- I'm
21 just -- I'm very concerned that you know we can't
22 have disingenuous. This is too important. These
23 things are critical. We're spending so much money.
24 We are trying to balance, making sure that we are
25 keeping things moving, and keeping everyone safe, and

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2 -- and making sure that we do have reliable service.
3 However, we absolutely have to make sure that we are
4 turning the ship, that we are making sure that we are
5 laser focused on our C.L.C.P.A. goals.

6 And then, when we have National Grid
7 provide information to us that says, we need to do
8 this. And we agree that we need to do it. But then
9 we find out independently that we didn't -- they
10 didn't use all of the information to justify it. It
11 -- it really is a problem for me because we, again,
12 have to make sure that we have integrity, that we are
13 trusting our partners, that we are using accurate and
14 up-to-date data in order to make sure that the
15 decisions that we are making are timely.

16 And if we have -- if -- if it's found
17 out by an independent consultant, not by National
18 Grid, that they excluded a facility, that they did
19 not use the most recent forecasts, it's a problem.

20 So I absolutely am going to vote to
21 deny -- to deny this. I absolutely am -- I'm going
22 to vote. But my -- my concern is -- is are they
23 going to then put in another petition tomorrow and
24 come up with another rationale to get this done? I
25 really think that we and they have an obligation to

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2 work with us to say you know what, maybe we were
3 wrong, maybe we all need it.

4 Maybe -- what are the things that we
5 need to do, so that we can trust the information that
6 they are providing. We have to be able to have trust
7 and integrity. And my concern is, if it were not for
8 the -- our staff and if it were not for an
9 independent consultant, we would be making a decision
10 providing the cost recovery based on incomplete or
11 flawed information. And I -- I really do not think
12 that that is acceptable.

13 So I mean, I'm voting in favor. It's
14 not that I am -- I'm in voting in favor to deny
15 absolutely. But my -- but my concern is, what is it
16 that needs to be done, so that we have more trust and
17 more integrity to make sure that we have and are
18 using the most reliable and accurate information that
19 we can, as we make these decisions on a going-forward
20 basis. Because I just -- it -- it -- it is really
21 upsetting. Because we have too many things that all
22 of us collectively are trying to manage.

23 And we have to make sure that we are
24 bringing people along the way. And if this continues
25 to happen, where we are not using accurate data,

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2 where we are using flawed data, that we have to have
3 independent consultants to find out that people are
4 not providing this information, it is hard to then
5 address those that are in opposition, that are saying
6 we didn't even need it in the first place. It's hard
7 to have that dialogue for them to trust us that we
8 are going to be making the right decisions. We have
9 to be able to trust each other. And right now, I do
10 not trust. So thank you to our team. And thank you
11 to P.A. Consultants.

12 CHAIR CHRISTIAN: Thank you,
13 Commissioner Edwards. General Counsel --?

14 MR. ROSENTHAL: Let me -- let me just
15 clarify one point. So in the original filing made by
16 National Grid, they do acknowledge and point to the
17 2022 design day forecast. It is in their initial
18 filing. It's just that they considered forecasts
19 from earlier years. That's -- that's where the
20 disagreement was. It's not that they ignored it --

21 COMMISSIONER EDWARDS: But why?

22 MR. ROSENTHAL: or -- or -- they had
23 reasons in their report that let's just say we
24 disagreed with and that we found to be unreasonable.
25 And all of those reasons were specified in the -- in

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2 the draft order before you.

3 COMMISSIONER EDWARDS: Yeah, I just,
4 you know -- Okay.

5 CHAIR CHRISTIAN: Thank you,
6 Commissioner Edwards.

7 I want to dig into your question a
8 little bit and ask you follow up to the forecast. So
9 Chris and Brandon, how many forecasts have been
10 developed since the 2019 proposal of this project?

11 MR. STOLICKY: National Grid updates
12 their forecasts around the June timeframe each year.
13 So that would be 2020, 2021, 2022.

14 CHAIR CHRISTIAN: All right. And in
15 the updates of these forecasts, all the factors that
16 were considered that were under discussion, they're
17 usually part and included in the respective
18 forecasts. So that would include the peaking supply
19 forecasts and the other item that was mentioned,
20 correct?

21 MR. STOLICKY: That is correct. I
22 just want to be clear that we're talking about demand
23 forecasts.

24 CHAIR CHRISTIAN: Uh-huh.

25 MR. STOLICKY: But we're also talking

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2 about the supply stack, which is where some of those
3 supply sources that Commissioner Edwards was --
4 Commissioner Edwards was referring to were excluded.

5 CHAIR CHRISTIAN: Right.

6 MR. STOLICKY: This is where we have
7 to marry existing supply versus demand to maintain
8 reliability.

9 CHAIR CHRISTIAN: Right. And there
10 are a lot of factors that affect both that may
11 increase the likelihood of reliability of one -- in
12 one particular forecast, diminish it in another. Is
13 that a correct --

14 MR. STOLICKY: Correct.

15 CHAIR CHRISTIAN: -- assumption?

16 MR. STOLICKY: Correct.

17 CHAIR CHRISTIAN: Okay. All right.

18 And in, I don't remember the specific rationale that
19 National Grid used for excluding them. But
20 ultimately, there was a difference of opinion in
21 terms of whether they should be or should not be
22 included in the forecast that P.A. Consulting
23 ultimately used. Is that a safe assessment to say?

24 MR. GOODRICH: Just to clarify by that
25 do you mean excluding the -- the peaking contracts

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2 from this, the supply?

3 CHAIR CHRISTIAN: Correct. Yeah.

4 MR. GOODRICH: Yes. And I -- I --
5 yes.

6 CHAIR CHRISTIAN: Okay. Thank you.
7 Okay. We'll move on now to Commissioner Howard.

8 COMMISSIONER HOWARD: Thank you, Mr.
9 Chairman. You know, my relationship with P.A.
10 Consultant sort of parallels when I got here. P.A.
11 was contracted by the agency at the time to deal with
12 the issue of the moratorium. And as I recall, in
13 2019, the public outcry was in fact, new customers
14 being denied gas service by National Grid in certain
15 locales.

16 And to respond to that we had P.A.
17 come in and do an extensive report on how we could
18 avoid future moratoria, which included a variety of
19 factors, increased D.S.M. and -- and the vaporizers
20 among -- and then some C.N.G. projects and
21 potentially large supply contract initiatives that
22 clearly were never going to happen. So that was --
23 that's where I've started with them. And -- and at
24 the time, there was not general consensus, certainly,
25 I didn't feel from staff that we felt what P.A. had

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2 produced at that time was something we could rely 100
3 percent on. Nor could we rely, as we turned out by
4 several orders, rely on what the company said.

5 So it did rely, come to staff and
6 their interpretation and -- of these sometimes
7 conflicting opinions to come up with a reasonable
8 middle ground. And I -- I -- I believe we're --
9 we're back to that now. One of the things that
10 concerns me this issue of the demand-side
11 alternatives, which we've been talking about,
12 certainly from 2019 into 2020, as being potentially
13 the best method to alleviate gas demand in -- you
14 know, in the KEDNY service territory.

15 So in our analysis, do we believe that
16 the company and/or any other demand-side programs
17 that are not actually administered by the company,
18 but may be administered by the State of New York are
19 wanting? Have they not been sufficient and have not
20 provided the amount of gas demand reduction that we
21 anticipate or believe is possible?

22 MR. MANZ: So I can -- I can try to
23 answer that for you. So as far as demand-side
24 management, I would say there's kind of three parts
25 to that. There's electrification efforts, there's

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2 demand response efforts, and then there's the energy
3 efficiency efforts, which -- to help reduce that peak
4 demand would be more focused on weatherization.
5 General assessment of -- of those programs in recent
6 years, and -- and -- and KEDNY and KEDLI's efforts on
7 their end. I would say on the electrification side,
8 we've seen a lot of electrification in the KEDNY
9 service territory.

10 KEDNY is not responsible for that
11 program. That is a program that's run by the
12 electric utilities under New York Clean Heat. So
13 that would be in -- in the Con Ed service territory.
14 So KEDNY works with Con Ed, and provides referrals.
15 And Con Ed would serve those customers.

16 COMMISSIONER HOWARD: So is it safe to
17 say that Con Ed has provided -- performed adequately
18 in terms of their move to -- move customers to
19 electric heat and hot water?

20 MR. MANZ: Yes. In that service
21 territory specifically, they've far exceeded any of
22 the -- the actual projections that -- that we had for
23 electrification in the KEDNY service territory.

24 COMMISSIONER HOWARD: And those
25 programs are rate-based in people's electric bills,

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2 correct?

3 MR. MANZ: That's correct.

4 COMMISSIONER HOWARD: Now, can you
5 describe what programs are rate based on the KEDNY
6 side?

7 MR. MANZ: Yes. So they have the
8 Demand Response Program, which I believe has been
9 relatively successful over the -- the last couple of
10 years and has been provided for in their D.S.M. plans
11 that were actually recently approved by the
12 Commission in January. On the weatherization side, I
13 would say those efforts have -- have not materialized
14 as -- as had been planned or expected.

15 It's -- it's been a slow start, I'd
16 say. And we're -- we're hoping that those can pick
17 up in -- in future years and we have been told that
18 the last half of '22 they -- they have accelerated
19 the work there. We're waiting on reports of the --
20 the year end for weatherization. But I would say in
21 general, weatherization has been struggling and --
22 and behind schedule.

23 COMMISSIONER HOWARD: And both of
24 those programs or all three of those programs do --
25 again is already put upward pressure on costs to

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2 ratepayers, correct?

3 MR. MANZ: That's correct.

4 COMMISSIONER HOWARD: And would it be
5 our --

6 MR. MANZ: I'm sorry. It's --
7 generally the -- the cost of those would put upward
8 pressure on rates, but those who participate would
9 see --.

10 COMMISSIONER HOWARD: No -- no, I got
11 it.

12 MR. MANZ: Okay.

13 COMMISSIONER HOWARD: The --

14 MR. MANZ: I just wanted to be --

15 COMMISSIONER HOWARD: -- if you
16 participate, you get a deal.

17 MR. MANZ: Yeah.

18 COMMISSIONER HOWARD: But if you
19 don't, you still pay.

20 MR. MANZ: Correct.

21 COMMISSIONER HOWARD: And even if you
22 do, you still pay?

23 MR. MANZ: Correct.

24 COMMISSIONER HOWARD: You know,
25 getting back to my ongoing and almost monotonous

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2 thing that -- they're -- these are programs that we
3 shouldn't pay through rates. If we need to electrify
4 our buildings, if we need to certainly bring them up
5 to higher energy efficiency standards, there's got to
6 be better ways to pay for it than customers bills.
7 Because part of this whole other underlying argument
8 against the vaporizers writ large has been that they
9 do provide -- that it costs ratepayers money. That
10 -- in when there was strong opinion that it cost
11 ratepayers money unnecessarily. The other one, delve
12 into the Demand Response Program, which we live
13 through Christmas time this year. Part of that
14 demand response is fuel switching, correct?

15 MR. MANZ: Yes, for some customers
16 that would be what they would use to --.

17 COMMISSIONER HOWARD: And these are
18 not little customers, are they?

19 MR. MANZ: No, they're not.

20 COMMISSIONER HOWARD: So when they
21 switch from natural gas service to fuel oil, for
22 instance, one could safely say that has a negative
23 environmental impact as opposed to using natural gas,
24 correct?

25 MR. MANZ: Yes, in those instances

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2 where they would switch to oil that -- that is the
3 case. Yes.

4 COMMISSIONER HOWARD: Great. And as
5 Commissioner Burman pointed out, these -- these
6 shortages can happen outside of the State of New York
7 and way beyond our control, as we actually did see
8 potentially last Christmas dealing with interstate
9 pipeline constraint and -- and -- and lack of
10 capacity, right?

11 MR. MANZ: Yes.

12 COMMISSIONER HOWARD: So a lot of
13 things can happen. So the other issue becomes -- and
14 -- and this goes back to the 2019 -- our -- our --
15 our relationships with P.A. And -- and -- and what
16 I've learned just generally since then, when we say
17 forecasting, what we're really saying is an informed
18 guess, correct? Could be higher. Could be lower.
19 Could be off by a little. We hope not by a lot. Is
20 that safe to say?

21 MR. STOLICKY: Yes. That's why it's
22 updated every year.

23 COMMISSIONER HOWARD: And would you
24 say the last few years have been an unprecedented
25 period of certainty on any level, whether it's

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2 supply, demand or -- or wholesale price that drive
3 our retail price.

4 Is that -- is that safe to say, we --
5 this is uncharted water. So when we make an analysis
6 of what has happened most recently, we -- we -- we
7 aren't served by decade's worth of history and
8 analysis. Is that safe to say?

9 MR. STOLICKY: Yes.

10 COMMISSIONER HOWARD: So what we're
11 being asked to do here and from the company is how
12 much insurance do we buy for a safe and reliable
13 system. And when do we buy the insurance?

14 If we had a plan, that I could point
15 to that says, this is how we're going to decarbonize
16 the KEDNY system by this date, and then, another one
17 several years down, and another in a decade, but that
18 plan doesn't exist.

19 That -- that plan doesn't exist. And
20 in terms of our C.L.C.P.A. goals and mandates, that's
21 what they are, goals and mandates. They have not
22 produced the plan.

23 So the issue here to me is as much
24 about how we plan for the future as opposed to
25 reacting to single instances and while these

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2 vaporizers could provide and -- and I believe, Chris,
3 you -- you outlined this to me personally that they
4 provide -- a -- a -- a reasonable cushion. It's not
5 an enormous cushion in terms of if we had -- as we
6 now know that climate change not only can make the
7 earth very warm certain periods of the year, it can
8 make the earth very cold. So in -- in -- in other
9 words, we -- we don't really know.

10 I mean, we try to know and provide
11 enough insurance to make sure that we cover our bases
12 but, again, it's an informed judgment, right? But
13 it's a judgment, nonetheless.

14 MR. STOLICKY: Correct.

15 COMMISSIONER HOWARD: And we are doing
16 that judgment absent a long-term plan. Is that also
17 correct?

18 MR. ROSENTHAL: I would say that's not
19 entirely correct.

20 MR. STOLICKY: Yeah.

21 COMMISSIONER HOWARD: I mean, long-
22 term meaning decade, two decades.

23 MR. ROSENTHAL: Right. And just
24 people have mentioned it, but we -- we did -- the
25 Commission did issue a -- an order authorizing

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2 moratorium and the companies have to keep ongoing
3 with their demand forecast, which they're doing.

4 And if they do hit a point where
5 supply and demand are out of balance, they will file
6 with us a request for moratorium. That is an option
7 that they have.

8 COMMISSIONER HOWARD: Well, we do know
9 what happened the last time that happened. It didn't
10 go particularly well.

11 MR. ROSENTHAL: Con Ed has an existing
12 moratorium right now. And that they've had since, I
13 believe, twenty -- 2019.

14 COMMISSIONER HOWARD: Right. But not
15 system wide.

16 MR. ROSENTHAL: In Southern
17 Westchester County.

18 COMMISSIONER HOWARD: Right. Correct.
19 So any way, I -- I will be supporting this but,
20 again, with -- with great trepidation, and it is my
21 hope -- and I -- and it is a hope that I don't
22 believe it that we will have, at some point in the
23 near future, not just for this company, but for all
24 gas L.D.C.'s and the electric L.D.C.'s, their
25 partners, a -- a -- a real roadmap on what we need to

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2 do on what dates to meet what goals and/or mandates.

3 And along with that, how much it's going to cost

4 because getting there will not be free.

5 But again, I do believe that this

6 order -- it appears to buy us some time, but it

7 doesn't forestall any something that may be needed in

8 the -- in the near term and next winter could be

9 horrible.

10 We don't know that our Christmas

11 incident could have lasted a week or more, which

12 would've changed the paradigm dramatically. So

13 again, I will be supporting this order, but with some

14 great trepidation.

15 And -- and very hopeful that -- that

16 quote the State of the York gets it together and

17 actually has a plan that's implementable, budgeted

18 and, you know, in a -- in a time quick enough to make

19 a difference. Because if not, we're going to be

20 doing these cases one at time. And I don't think

21 that will satisfy what ratepayers want, and I

22 certainly don't set -- believe it will satisfy what

23 we believe our climate goals will be.

24 But again, you got to make the

25 judgment on what's before you and I -- at this point,

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2 I -- I will trust staff's analysis that we have some
3 time and we will see -- and I -- and I would hope
4 that we would be able to report much quicker in terms
5 of a periodic report. Are we getting there?

6 You know, because the lag between, you
7 know, the forecast -- is a yearly forecast adequate.
8 And -- and when they vary by five percent, that's a
9 big -- that's a big variance unprecedented.

10 So again, we might be -- see next
11 year's report and it -- and it may come up with a
12 dramatically different conclusion. So again, I thank
13 everybody for their hard work. I wish we had
14 multiple consultants beyond P.A., not to knock them
15 per se, but when we go back to the same, well, I --
16 new perspectives is always good. And again, but
17 thank you. This was a tough call. This is a tough
18 call.

19 And again, future commissions are
20 undoubtedly going to have to deal with it. It's just
21 a question and it's going to be in eight to 12 months
22 or 20 some months, but it's not going away. So thank
23 you, Mr. Chairman.

24 CHAIR CHRISTIAN: Thank you,
25 commissioner. Commissioner Valesky?

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2 MR. GOODRICH: Chair, can I -- may I
3 respond to something briefly?

4 CHAIR CHRISTIAN: Go right ahead.

5 MR. GOODRICH: Commissioner Howard,
6 you noted a -- a desire for -- for more long-term
7 planning and I just wanted to note a couple of venues
8 where that is happening and coming up is we have the
9 -- the long-term plans that the utilities are filing
10 in a staggered fashion in the gas planning case.

11 Well, coming out of the gas planning
12 case, they're going to be given their -- their own
13 cases. N.F.G. has filed one of those and we do have
14 a different consultant C.R.A. from Charles River
15 Associates assisting staff in reviewing that plan.

16 And there is also statewide utilities
17 will be -- the utilities will be doing a pathway
18 study. That is, I believe, they're working on the --
19 the proposal for that. And that's to be filed, I
20 believe, at the end of March.

21 COMMISSIONER HOWARD: Thank you for
22 that clarification.

23 CHAIR CHRISTIAN: Commissioner Valesky?

24 COMMISSIONER VALESKY: Thank you, Mr.
25 Chair. And thank you, Brandon, Chris and your entire

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2 team for the work that you've put in on this item.

3 So -- so I think over and over, safe and reliable
4 service at just and reasonable rate.

5 Or since the day of my senate
6 confirmation, safe and reliable service at just and
7 reasonable rates and the -- and the draft orders that
8 come before us, since then, I'm constantly looking at
9 those orders through -- through that lens. That's
10 the mission of the Commission. And I think to -- to
11 one extent, we all do.

12 In regard to this -- this order, I --
13 I do believe that staff has satisfactorily met those
14 req -- those requirements to be consistent with our
15 mission of providing safe and reliable service at
16 just and reasonable rates.

17 And as a result, I'll be supporting
18 this item that -- that denies at this time, the gas
19 vaporizers. I do however want to just -- just take a
20 -- an extra moment to share some of my thought
21 process of how I got to that conclusion.

22 You know, it -- it's easy to take a
23 look at draft orders and flip to the back two pages.
24 Because really what matters is what is the Commission
25 doing, what is the Commission not doing? And that is

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2 always summarized in the last couple of pages.

3 But I think unless we take the time to
4 read through the entire petition, and I don't just
5 mean we, I'm hoping everyone who is interested in
6 issues that come before us actually take the time to
7 read through the entire draft orders that come before
8 us.

9 And -- and as they're reported upon
10 going forward to the public, because there's a lot of
11 information in there that, when we support items, we
12 support its findings but I like to think we also
13 support the path by which you all got us to those
14 findings.

15 So in that regard, the discussion
16 section of draft orders for me contains a lot of
17 really helpful information that shows me the thought
18 process that led all of you to come to your
19 particular conclusion. I just want to lift, if I
20 could.

21 Even though the entire draft order
22 will be in the record, I would just like to lift a
23 paragraph from that discussion section and read it
24 into the record because this for me is important and
25 what I am looking at, as I look not only at this

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2 order, but -- but certainly orders to come. And this
3 is page seventeen in the draft itself.

4 It follows the first paragraph in the
5 discussion section about design day condition --
6 design day conditions. And it says this, the
7 Commission is mindful of and has taken numerous
8 actions to support New York State's transition from
9 dependency on fossil fuels, including natural gas to
10 reliance on clean energy. This transition will take
11 time.

12 And we must continue to ensure that
13 customers who presently rely on natural gas and who
14 are entitled by statute to seek gas service can
15 continue to receive safe, adequate and re -- reliable
16 service, particularly on the coldest days of the
17 year.

18 Accordingly, while the transition to a
19 net zero economy proceeds in New York, some continued
20 investments in natural gas infrastructure remain
21 necessary.

22 I think that's an important paragraph.
23 I appreciate its inclusion in the draft order. And
24 I'll be supporting the order again. Thank you.

25 CHAIR CHRISTIAN: Thank you,

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2 Commissioner. Commissioner Maggiore.

3 COMMISSIONER MAGGIORE: Thank you. I
4 am -- would like to explain how I also arrived at a
5 -- at the decision to vote yes on the order before
6 us. I was going to state this but let me ask this as
7 a question. I'm -- I'm doing what Commissioner
8 Valesky said and I'm going to the back of the order.

9 And looking at the conclusion and the
10 first sentence of the conclusion begins, the petition
11 is denied. So if I vote yes, am I voting to deny the
12 petition?

13 MR. STOLICKY: That is correct.

14 MR. ROSENTHAL: You're voting to deny
15 the petition with -- without prejudice to refile
16 based on the conditions otherwise stated in the
17 order.

18 COMMISSIONER MAGGIORE: I -- I got
19 that and I'm going to comment on that as well but
20 thank you.

21 MR. ROSENTHAL: And -- and --

22 COMMISSIONER MAGGIORE: Let me ask
23 this question.

24 MR. ROSENTHAL: Let me just add one
25 more important point --

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2 COMMISSIONER MAGGIORE: I'm sorry?

3 MR. ROSENTHAL: Let me -- let me just
4 raise one more important point because I -- I have it
5 in front of me too.

6 COMMISSIONER MAGGIORE: Yeah.

7 MR. ROSENTHAL: It's to the extent of
8 approving the limited cost recovery. So there is a
9 cost recovery component in this as Commissioner Alesi
10 talked about earlier.

11 COMMISSIONER MAGGIORE: Got it. Yes.
12 I -- I see that. And yes, I -- I acknowledge that.
13 If -- if this commission voted down the order, would
14 that -- would that be tantamount to approving the
15 petition or would you have to come back with another
16 order?

17 MR. ROSENTHAL: Can you restate the
18 question?

19 COMMISSIONER MAGGIORE: Yeah. If --
20 if instead of voting yes, if this commission did not
21 approve the order, if we rejected the order in this
22 session right now, would the act of rejecting the
23 order be an act of approval of the petition? Would
24 we be approving the petition by rejecting the order?

25 MR. ROSENTHAL: No, it wouldn't be but

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2 I -- I should just add. I mean, this is the order.
3 It's a draft order if you wanted to vote in favor of
4 the petition, that would be an option for you.

5 COMMISSIONER MAGGIORE: Right --
6 right. No -- that's my understanding. So thank you.
7 And the reason I'm asking that is because if I want
8 to -- I just want to be really clear.

9 The decisive act of voting yes is a
10 denial of the petition. That's the option that I
11 have. It's not, I could vote to deny the petition or
12 I could also vote to approve the petition. I could
13 vote yes and that's a denial of the petition.

14 And -- and Bob, you explained the
15 caveat. Which is that there is some cost recovery as
16 Commissioner Alesi explained. And that the denial is
17 without prejudice, which is explained in the language
18 but I'm going to look at some of the other language
19 in the order because in voting yes, I'm voting in
20 favor of the language that's in the order.

21 I also want to say this, although the
22 order is very clear that we're denying without
23 prejudice, first of all, if something comes before us
24 in the future, anything I'm saying today is not to be
25 misconstrued as prejudging something that comes

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2 before us.

3 In the future, I would look at
4 something new with wide open eyes. With that said, I
5 am hoping not to see this question revisited before
6 this commission in a session like this anytime soon.

7 So the order, I'm going to quote as
8 much as I can. I mean, as much as possible, I'm
9 going to -- I want to rely on quotes. On page two,
10 it says, the project may be needed by winter of 2028-
11 29 and I think it -- I think it was Chris who said in
12 the presentation, it may or may not be needed. Which
13 is, you know, I think the, or not is, I think implied
14 in the word, may.

15 And also, on page 11, it said,
16 construction would need to begin by May of 2027 to
17 meet the need date. So if it turns out that -- that
18 may is actually well -- will be needed. The order
19 says, construction would need to begin by May of
20 2027.

21 So I -- I don't think that the
22 Commission as a body would need to act too much
23 earlier than that in order to begin construction in
24 -- in alignment with that assessment. But there's a
25 lot more in this order than that.

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2 I think that the order acknowledges a
3 lot can happen between now and then. And I also
4 think that the order is very, very clear about what
5 this commission's expectations are of KEDNY and about
6 what should happen next.

7 And I just want to point out a couple
8 of things that are in here. So on page 19 -- well,
9 let me start on page two. This is -- this is the
10 beginning of the order.

11 The Commission finds that KEDNY must
12 redouble its efforts on energy efficiency and other
13 demand-side management programs to further delay or
14 entirely avoid the need for this project.

15 Page two. Page 19. Page 19 discusses
16 how it discusses the design day forecast and it says,
17 the Commission is mindful that forecast can change as
18 we've discussed.

19 Subsequent changes to the forecast of
20 peak demand have both potential benefits and risks.
21 The additional two years between when KEDNY asserted
22 the project would be needed and when the project may
23 not be needed based on P.A.'s assessments, provides
24 KEDNY with an opportunity to augment its efforts and
25 energy efficiency and other demand-side management

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2 programs to further delay or permanently avoid the
3 potential need for the project.

4 COMMISSIONER MAGGIORE: Okay.

5 Page 20. Page 20 considers the
6 possibility that KEDNY might file a petition in the
7 future to revisit this. But it says, if KEDNY filed
8 such a petition, the company must make a showing that
9 it also made the appropriate efforts required under
10 the rate order to implement its energy efficiency and
11 other demand-side management programs prior to
12 refiling.

13 COMMISSIONER MAGGIORE: Okay. On page
14 27. Turn to page 27. The Commission expects that
15 KEDNY will move forward at a rapid pace to fully
16 develop its nascent weatherization programs and
17 strengthen its demand-side management portfolio as
18 discussed in the Commission's recent order regarding
19 KEDNY's incremental demand-side management programs.

20 This order is like a Snickers bar and
21 sentences like that and in -- and instructions and
22 guidance are like the nuts in the Snickers bar. You
23 can't cut it up without finding those instructions.

24 And I -- that's what I'm supporting.

25 I'm -- I, you know, I think that a -- a yes vote is a

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2 clear denial of the petition with clear instructions
3 and expectations about what KEDNY should do next.

4 So that's, you know, in reading this
5 and reading some of the commentary and some of the
6 background, that's how I decided to arrive at a yes
7 vote. So that's how I'm going to be voting today.
8 Thank you very much.

9 CHAIR CHRISTIAN: Thank you,
10 commissioner. I do call for a vote. My vote is in
11 favor of the recommendation to deny the petition as
12 discussed. Commissioner Burman, how do you vote?

13 COMMISSIONER BURMAN: No.

14 CHAIR CHRISTIAN: Commissioner Alesi?

15 COMMISSIONER ALESI: Yes.

16 CHAIR CHRISTIAN: Commissioner
17 Edwards?

18 COMMISSIONER EDWARDS: Yes.

19 CHAIR CHRISTIAN: Thank you.
20 Commissioner Howard?

21 COMMISSIONER HOWARD: Yes.

22 CHAIR CHRISTIAN: Commissioner
23 Valesky?

24 COMMISSIONER VALESKY: Yes.

25 CHAIR CHRISTIAN: Commissioner

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2 Maggiore?

3 COMMISSIONER MAGGIORE: Yes.

4 CHAIR CHRISTIAN: Great. Thank you.

5 The item is approved and the recommendations are
6 adopted. Thank you, everyone.

7 We'll move to our third item for
8 discussion. Item 301, case 18-E-0130 related to the
9 joint utilities request to modify the Energy Storage
10 Solicitations.

11 It'll be presented today by Scott
12 Nevins. Marco Padula and Stephanie McDermott are
13 also available for questions. Thank you. Scott,
14 when you're ready please begin.

15 MR. NEVINS: Good afternoon, Chair
16 Christian and commissioners. Item 301 is a draft
17 order in case 18-E-0130 in the matter of Energy
18 Storage Deployment Program. Approving changes
19 proposed in a petition filed on November 30th, 2022
20 by Central Hudson Gas and Electric Corporation,
21 Consolidated Edison Company of New York, New York
22 State Electric and Gas Corporation, Niagara Mohawk
23 Power Corporation doing business as National Grid,
24 Orange & Rockland Utilities and Rochester Gas and
25 Electric Corporation.

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2 Collectively, the Joint Utilities or
3 J.U. to modify future solicitations for energy
4 storage dispatch rights contracts between an
5 investor-owned utility and a storage developer by
6 extending the in-service date to December 31st, 2028
7 and -- and increasing the maximum number of years of
8 a dispatch rights contract from 10 to 15.

9 As you are aware, on December 13th,
10 2018, the Commission issued an order establishing
11 energy storage goal and deployment policy in this
12 proceeding.

13 As part of that order, the J.U. were
14 directed to -- to competitively procure a total of
15 350 megawatts of bulk energy storage projects with
16 dis -- dispatch rights contracts. 300 megawatts of
17 which was to be located within the Con Edison Service
18 territory and 10 megawatts in each of the other five
19 investor-owned utilities.

20 The 2018 energy storage order
21 specified an in-service date of December 31st, 2022
22 for the energy storage systems and a seven-year
23 maximum dispatch rights contract.

24 After the first round of energy
25 storage solicitations resulted in only National Grid

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2 reaching its target, the J.U. petitioned the
3 Commission to extend the in-service date to December
4 31st, 2025 and to increase the maximum allowable
5 dispatch rights contract to 10 years to try and
6 increase the number of competitive bids and future
7 solicitations.

8 The Commission approved the J.U.'s
9 request on April 16th, 2021. After a second round of
10 solicitations, nearly half of the 350 megawatt goal
11 is either under contract or in the final stages of
12 contract negotiation.

13 The draft order before the Commission
14 today approves the J.U.'s request to both extend the
15 in-service date of contracted energy storage projects
16 from December 31st, 2025 to December 31st, 2028 and
17 to increase the maximum dispatch rates contract term
18 from 10 to 15 years. Both changes are expected to
19 make future utility solicitations more competitive to
20 developers resulting in more contract in megawatts.

21 Lastly, only three parties submitted
22 comments on the J.U.'s petition, all of whom support
23 the J.U.'s request. This concludes my presentation
24 and we are happy to take any questions you may have.
25 Thank you.

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2 CHAIR CHRISTIAN: Thank you, Scott.

3 Excellent first showing in front of the Commission.
4 Thank you for your presentation. So as I understand
5 it, this is all part of our six-gigawatt energy
6 storage roadmap.

7 At which point, the Commission
8 directed the Joint Utilities to pursue that 350
9 megawatt energy storage project goal through a
10 competitive procurement process.

11 You've just described the path we've
12 taken to get to this point with various modifications
13 to make the process more efficient. And this is yet
14 another step in that direction to help us meet the
15 remaining 50 percent of the target we have to
16 achieve.

17 So ultimately, I believe these
18 modifications are going to enhance our efforts to
19 procure battery storage and also lower the impact on
20 ratepayers over time. So appreciate the effort and
21 thank you for bringing this before us today.

22 Commissioner Burman, do you have any
23 comments?

24 COMMISSIONER BURMAN: Thank you. So I
25 have a question. Energy storage and technical

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2 analysis, that it has a 15-year life cycle. Has the
3 analysis been done?

4 MR. PADULA: Well, the analysis comes
5 from information that we get from developers and
6 through NYSERDA.

7 COMMISSIONER BURMAN: Okay. But we
8 haven't done it or we don't have any technical
9 experts that have done it to confirm that.

10 MR. PADULA: We do not, no.

11 COMMISSIONER BURMAN: Okay. Thanks.
12 Question then, Microgrid Networks, which was one of
13 the developers that submitted comments in support and
14 they have a project with an in-service deadline of
15 12/31/25, and they supported comments to extend the
16 deadline.

17 If we do that, do they get to change
18 their contract to extend the deadline to 12/31/28?

19 MR. NEVINS: Well, right now, they're
20 -- they're in final contract negotiations. So that
21 date has not been set yet.

22 COMMISSIONER BURMAN: Okay. But it --
23 could they, if they haven't?

24 MR. NEVINS: They could.

25 COMMISSIONER BURMAN: They submit a

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2 comment, it's -- we assume it's a 12/31/25, because
3 that's what it would be. Can they extend the
4 deadline?

5 MR. NEVINS: If the Commission
6 approves, yes, they could.

7 COMMISSIONER BURMAN: If the
8 Commission approves. Anyone else who has a contract,
9 we assume that it's a 12/31/25 deadline, at least
10 that's up to it what it could be. Can they extend
11 the deadline?

12 MR. NEVINS: They would be eligible.

13 COMMISSIONER BURMAN: Can they extend
14 the contract from the -- the current years to further
15 out, seven years to 10 years?

16 MR. NEVINS: 10 to 15?

17 COMMISSIONER BURMAN: Yeah.

18 MR. NEVINS: Yeah, they would be able
19 to.

20 COMMISSIONER BURMAN: Okay. So I'm a
21 no. The reason I'm a no is, when we first did the
22 original order back in December 13th, 2028 (sic), I
23 concurred in part and dissented in part.

24 My dissent was focused on concern
25 about what we were doing for accountability and

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2 review. But I was for it, it's under the Public
3 Service Law Section 74, the Commission was required
4 to establish in consultation with NYSERDA, the I.S.O.
5 and Long Island Power Authority. A statewide energy
6 storage goal for 2030 and focus on a deployment
7 policy to support that goal, fine.

8 Then, we come back in April 16th, 2021
9 with a petition that we approve to modify the
10 original energy storage order. So an in-service date
11 went from, excuse me, went from 12/31/22, we extended
12 that to 12/31/25, correct?

13 MR. NEVINS: Uh-huh.

14 COMMISSIONER BURMAN: Okay. And we
15 also looked at the contract terms. But that
16 modification order, which I concurred on, and again,
17 raised concerns about what we're doing.

18 We then focused on a triennial review,
19 which would be coming again. My concern is, and the
20 reason I supported concurring at the time was, it was
21 on future solicitations. It was forward looking.

22 So clearly there weren't that many
23 contracts anyway but it wasn't that those who had
24 already got on through the R.F.P. bid and were
25 winners, were now allowed to take benefit for our

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2 change.

3 I think that it is unfair for us to
4 change contracts and R.F.P.s that have been awarded
5 for those folks because we're going to do a future
6 solicitation. You want to look at that, that's fine
7 but we are affecting things that have already gone
8 through the R.F.P. process.

9 Now, folks have been talking about
10 transparency in solicitations and R.F.P. And in
11 here, New York Best also raised that and had some
12 other ideas.

13 All of that is forward looking to when
14 we're doing the triennial review, which is part of
15 the roadmap that got issued. In December of 2022, it
16 got SAPA'd -- comments are flying in now. I -- and --
17 -- and in fact, I think the comment period will end
18 before the April session.

19 As far as I'm concerned, us approving
20 today things that will affect current existing
21 projects, while I understand those people who won
22 those contracts would like to benefit, they shouldn't
23 have, you know, a leg up from the change in us
24 changing the deadlines that actually harm those folks
25 who have already submitted through the R.F.P. and

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2 lost.

3 Due to solicitations, perhaps not an
4 issue, we should be looking at it more holistically
5 when we look at the roadmap and the triennial review
6 and, in fact, the modification order back in April
7 16th, 2021 only dealt with future solicitations. It
8 talked about changing the in-service date extension.
9 It talked about the maximum contract duration for
10 future solicitations.

11 And in fact, the modification order
12 then talked about the need to look at all of this as
13 we head into the triennial review and any further
14 modifications should be part of the triennial review
15 required by the original energy storage order and the
16 modification order.

17 And so we're changing -- changing the
18 rules here and I don't think that's fair. And I have
19 grave concern because I think it delves into
20 inserting ourselves in procurements that's already
21 been dealt with. So as far as I'm concerned, I'm a
22 no. Thank you.

23 CHAIR CHRISTIAN: Thank you.

24 Commissioner Alesi?

25 COMMISSIONER ALESI: I'll be

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2 supporting this. I have no further questions or
3 comments.

4 CHAIR CHRISTIAN: Thank you.
5 Commissioner Edwards?

6 COMMISSIONER EDWARDS: I'm in favor of
7 this. Thank you.

8 CHAIR CHRISTIAN: Thank you.
9 Commissioner Howard?

10 COMMISSIONER HOWARD: Yeah. Thank
11 you. Mr. Chairman, a couple of questions.

12 There must be a reason we're going a
13 little slow and that the utilities weren't anxious to
14 sign the first set of contracts that may have come
15 in.

16 Could you sort of comment were they
17 too expensive, were they technically unfeasible, are
18 they -- were they being reasonable or did they fear
19 that they would overspend and we would find them
20 imprudent on that? Can you just sort of characterize
21 why it hasn't gone to the schedule as originally
22 hoped for?

23 MR. PADULA: Sure, I could do that.
24 And fir -- first, I'll remind everyone that the
25 storage, the R.F.P.s that are carried out by the

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2 utilities for what we call storage dispatch
3 contracts, are just one tool in a toolbox to achieve
4 the current storage goal that the Commission has.

5 COMMISSIONER HOWARD: The 350 or the
6 six gigs?

7 MR. PADULA: Well, the current goal is
8 three gigs.

9 COMMISSIONER HOWARD: Uh-huh.

10 MR. PADULA: The six gigawatt is a
11 proposal that's --

12 COMMISSIONER HOWARD: Right. Okay.

13 MR. PADULA: -- currently in the
14 roadmap.

15 COMMISSIONER HOWARD: But the -- the
16 350 that we --?

17 MR. PADULA: Yeah. The 350 is one
18 piece of the 3000 megawatts.

19 COMMISSIONER HOWARD: Okay.

20 MR. PADULA: And the way that the
21 R.F.P.s are handled is that the utilities put out a
22 request for proposals. It's almost like a request
23 for leasing a car where they would lease the battery
24 for a certain number of years. Then, the utilities
25 get to use that asset.

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2 Use it in the market, sell it, sell
3 ancillary services into the market, get that
4 experience. And before they enter into those
5 contracts, they go through a -- an extremely detailed
6 modeling of what they think they can achieve in terms
7 of revenues from that asset. And they determine
8 what's called a bid cap.

9 And what we've seen and staff is
10 deeply involved in both the -- going through the
11 modeling that each of the utilities do, review of the
12 re -- the responses that come back and what we've
13 seen is in the -- in the past solicitations, those
14 bids have not been below the -- the expected bid cap.

15 So it's almost like why would you
16 enter in to lease this asset if your expectation is
17 to lose money. We don't want the utilities to do
18 that. These are supposed to be revenue producing
19 assets and leases that get en -- entered into.

20 So we also saw as we've gone through
21 and -- and reviewed those results that there are
22 certain things aspects of those procurements that
23 resulted in the competitive proposals to be higher
24 cost than normal. Like the term that was set before
25 of seven years. Like the in-service date, which more

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2 recently had -- have become really difficult to
3 make, given all of the worldwide -- we hate to use the
4 word, supply constraints -- right, supply chain
5 constraints but they are real especially when it
6 comes to battery storage projects.

7 So not just willy-nilly, let's not
8 accept bids. There's deep analysis and -- and
9 modeling that goes into deciding not to accept the
10 bid.

11 And one -- one point I just want to
12 make is that, re -- regarding Commissioner Burman's
13 comments is that, what you're deciding here today
14 doesn't automatically go into effect for those
15 existing contracts.

16 If an existing contract says that I
17 need to push out the due date, that has to be
18 negotiated with the -- with the utility. And they
19 can decide not to enter into that contract if, in
20 fact, it's not economic to do so.

21 So I hope that answers your question,
22 Commissioner Howard.

23 COMMISSIONER HOWARD: Yeah, it sort
24 of. So the shorter answer is, from our observation,
25 storage is costing more and taking longer, writ

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2 large?

3 MR. PADULA: Yes.

4 COMMISSIONER HOWARD: And is there any
5 indication that this -- that will change? And is
6 there still risk, risk is maybe the wrong phrase,
7 still a possibility that given that ongoing supply
8 chain issue and what we've seen in the real-world
9 marketplace.

10 Particularly for lithium ion
11 technology, it has not decreased in cost as
12 anticipated as this came to scale. In fact, it's
13 been the other way around. It's actually cost more
14 than anticipated, writ large.

15 MR. PADULA: Definitely more than we
16 anticipated when we rolled out the first storage
17 roadmap, yeah.

18 COMMISSIONER HOWARD: So our gross
19 level of spending for the three and possibly six
20 gigawatts of storage could, you know, because when
21 we're talking about 350, we're talking about an order
22 of magnitude more in terms of size, spending,
23 engineering, et cetera. That -- that -- that -- that
24 trend has no -- we don't see it ending. Oh, you
25 know, we're just going over a little bump. But, you

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2 know, down the road, it's all going to come back
3 together. It'll be cheaper and quicker and better.
4 We have no indication that in fact will occur.

5 MR. PADULA: I think if you look at
6 some of the cost curves that show decreasing cost in
7 the technology, they are pushed out further than
8 where we were three years ago.

9 COMMISSIONER HOWARD: So our wishful
10 thinking just continues only on a longer scale?

11 MR. PADULA: That's the reality of the
12 situation.

13 COMMISSIONER HOWARD: No -- no, I -- I
14 -- I got it or I don't mean to be, you know, make
15 light of the situation.

16 MR. PADULA: Yeah.

17 COMMISSIONER HOWARD: It -- it -- it's
18 just -- I guess this is how I view many of our
19 C.L.C.P.A. and decarbonated -- decarbonization
20 efforts. They'll take longer and they'll cost a lot
21 more.

22 What is difficult for me is that we
23 don't have that broad acknowledgement that at a broad
24 policy level. Yes, our goals are real. Yes, our
25 goals are necessary but our -- our estimates on cost

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2 and timing were maybe -- since they were set
3 arbitrarily were maybe been a little more wishful
4 thinking than hard reality of the ability of the
5 marketplace and technology to achieve it. And I get
6 where the -- the utilities are at.

7 You know, if they were procuring --
8 procuring everything else, except under the mandate,
9 they wouldn't do it at all because, like you said,
10 they aren't in the business of losing money.

11 And -- and -- and if the question is -
12 - is that, if we do not see a time when they actually
13 can make money, we'll have to view this as an ongoing
14 subsidy over current pricing, whether it's a Peaker
15 unit or -- or -- or the like. But -- but for public
16 policy goals, we find it's worth the money, you know.

17 So at some point, I think that the
18 entire reset comes and as we do the analysis on the
19 broader procurement, I think it's really important
20 that we be as truthful as possible at the front end
21 to say, guys, we -- we tried, we tried hard, but
22 stuff happened. The world changed and maybe our
23 belief that technology follows a -- a curve, a
24 decrease in curve, just was not ever going to be the
25 case.

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2 So I think that's the real issue here
3 before us. And the other thing is, our extending the
4 useful life of these units by five years. We still
5 know that they still on an individual basis may
6 decline in output in those last few years of that 15.
7 Is that possible?

8 MR. PADULA: That is possible,
9 correct. Now, certain contract provisions would
10 require cell replacements along the way to maintain
11 the capability that's being purchased.

12 COMMISSIONER HOWARD: Right. But that
13 -- that -- maintaining that -- that level of output
14 and dispatchability doesn't come free.

15 MR. PADULA: Correct.

16 COMMISSIONER HOWARD: Okay. Well,
17 anyway, I just think this is the -- another one of
18 our canaries in the coal mine. It shows that many of
19 the things that we all agree on are very anxious to
20 do but at some point, we have to say, they're going
21 to take a little longer, maybe a lot longer or longer
22 and cost maybe a little bit more, but could cost a
23 lot more.

24 And I think that we're going through
25 this with this high degree of uncertainty on both

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2 performance and cost that we need to be very
3 cognizant of not only on this but other technologies
4 that are going to be deployed at scale in the near
5 term.

6 That -- that being said, I will do a
7 precursor before it ever comes to us. I am not in
8 favor of putting automatic inflaters in these
9 technology purchases. Saying, well, inflation might
10 hit so you can have an inflation, you know, a factor
11 there.

12 Well, that's, you know, that's --
13 nobody goes to the grocery store and said, you know,
14 my groceries cost a hundred bucks but they have a
15 chance to make it \$108 because they had some stuff.
16 You know, that's not how -- I don't believe, people
17 really buy stuff.

18 So -- but that is -- it is not for
19 this case. But I think it is going to be, from my
20 point of view, something that I will look very
21 closely at on the issues going forward. But with
22 that, I will be voting yes.

23 CHAIR CHRISTIAN: Thank you,
24 commissioner. Commissioner Valesky?

25 COMMISSIONER VALESKY: No comments.

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2 CHAIR CHRISTIAN: Thank you.

3 Commissioner Maggiore?

4 COMMISSIONER MAGGIORE: I have no
5 questions or comments. Thank you for the
6 presentation.

7 CHAIR CHRISTIAN: Thank you. I'll do
8 a call for a vote. My vote is in favor of the
9 recommendation to modify the energy storage
10 solicitations as discussed.

11 Commissioner Burman, how do you vote?

12 COMMISSIONER BURMAN: I vote no.

13 CHAIR CHRISTIAN: Commissioner Alesi?

14 COMMISSIONER ALESI: Yes.

15 CHAIR CHRISTIAN: Commissioner
16 Edwards?

17 COMMISSIONER EDWARDS: Yes.

18 CHAIR CHRISTIAN: Commissioner Howard?

19 COMMISSIONER HOWARD: Yes.

20 CHAIR CHRISTIAN: Commissioner
21 Valesky?

22 COMMISSIONER VALESKY: Yes.

23 CHAIR CHRISTIAN: Commissioner

24 Maggiore?

25 COMMISSIONER MAGGIORE: Yes.

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2 CHAIR CHRISTIAN: The item is approved
3 and the recommendations are adopted. Thank you.
4 Thank you for the presentation.

5 We will now move to the consent
6 agenda. Do any commissioners wish to comment or
7 recuse from voting on any items on the consent agenda
8 today?

9 I'll begin with Commissioner Burman.

10 COMMISSIONER BURMAN: Thank you. I
11 just have a quick. Item 365, I want to give a shout
12 out to M.I., kudos for them submitting comments on
13 this. I think it made a difference and I appreciate
14 the fact that they did.

15 Item 372, I am voting no. Basically,
16 because in the order it allows the Commission to find
17 that it is within the public interest approving the
18 request to incur indebtedness along with requested
19 flexibility to modify without our prior -- prior
20 approval. The identity of the financing entities,
21 payment terms and amount financed up to the 300
22 million limit, I think this flexibility without
23 coming back for commission approval is not good and I
24 have previously voted no whenever we allowed that
25 flexibility. So I'm voting no.

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2 In item 661, I'll be voting for it.

3 But I do just want to recognize that I think that the
4 Town of Oyster Bay should be working with Verizon. I
5 think Verizon, there is some customer confusion. I
6 think Town of Oyster Bay's comments really spoke to
7 me in some of that and I think that we should try to
8 address what I think is a clear issue there. So
9 thank you.

10 CHAIR CHRISTIAN: Thank you,
11 commissioner. Commissioner Alesi?

12 COMMISSIONER ALESI: I will be
13 supporting the entire agenda. No questions or
14 comments. Thank you.

15 CHAIR CHRISTIAN: Thank you.
16 Commissioner Edwards?

17 COMMISSIONER EDWARDS: No questions,
18 no comments.

19 CHAIR CHRISTIAN: Thank you.
20 Commissioner Howard?

21 COMMISSIONER HOWARD: In keeping with
22 my past votes, I'll be voting no on Item 366.

23 CHAIR CHRISTIAN: Thank you.
24 Commissioner Valesky?

25 COMMISSIONER VALESKY: No comments.

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2 CHAIR CHRISTIAN: Commissioner

3 Maggiore?

4 COMMISSIONER MAGGIORE: Thank you.

5 I'm going to be recusing from Item 375 -- 375, not
6 recusing, I'm sorry. Abstaining -- abstaining from
7 Item 375. Other than that, I'll vote yes on the rest
8 of the consent agenda.

9 CHAIR CHRISTIAN: Okay. Thank you.

10 The items are approved. Oh, wait, I'm sorry. Let me
11 try that again. I'm getting ahead of myself. My
12 vote is in favor of the recommendations on the
13 consent agenda.

14 Commissioner Burman, how do you vote?

15 COMMISSIONER BURMAN: I vote in favor
16 except Item 372, I'm a no. Thank you.

17 CHAIR CHRISTIAN: Thank you.

18 Commissioner Alesi?

19 COMMISSIONER ALESI: Yes on all items.

20 CHAIR CHRISTIAN: Thank you.

21 Commissioner Edwards?

22 COMMISSIONER EDWARDS: I vote yes.

23 CHAIR CHRISTIAN: Thank you.

24 Commissioner Howard?

25 COMMISSIONER HOWARD: Yes with the

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2 exception of Item 366, where I'm a no.

3 CHAIR CHRISTIAN: Commissioner
4 Valesky?

5 COMMISSIONER VALESKY: Yes, on all
6 items.

7 CHAIR CHRISTIAN: Commissioner
8 Maggiore?

9 COMMISSIONER MAGGIORE: Yes, on all
10 items except for 375 which I'm abstaining from voting
11 on. Other than that, yes on everything else.

12 CHAIR CHRISTIAN: Excellent. Thank
13 you very much. The items are approved and the
14 recommendations are adopted. Okay.

15 Madam Secretary, are there any other
16 items to come before us today?

17 SECRETARY PHILLIPS: There's nothing
18 further.

19 CHAIR CHRISTIAN: All right. And with
20 that, I adjourn. Thank you everyone.

21 (Off the record)

22 (The proceeding concluded at 12:41
23 p.m.)

24

25

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2 STATE OF NEW YORK
3 I, DANIELLE CHRISTIAN, do hereby certify that the
4 foregoing was reported by me, in the cause, at the time
5 and place, as stated in the caption hereto, at Page 1
6 hereof; that the foregoing typewritten transcription
7 consisting of pages 1 through 99, is a true record of all
8 proceedings had at the hearing.

9 IN WITNESS WHEREOF, I have hereunto
10 subscribed my name, this the 20th day of March, 2023.

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DANIELLE CHRISTIAN, Reporter

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