

1 7/20/2023 - Monthly Meeting

2 STATE OF NEW YORK

3 PUBLIC SERVICE COMMISSION

4 MONTHLY MEETING

5  
6 Thursday, July 20, 2023

7 10:30 a.m. until 3:27 p.m.

8 ESP, Building 3, 19th Floor Boardroom

9 Albany, New York 12223

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 10:30 a.m.)

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

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

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

14 COMMISSIONER BURMAN: Present.

15 CHAIR CHRISTIAN: Commissioner James  
16 Alesi?

17 COMMISSIONER ALESI: Present.

18 CHAIR CHRISTIAN: Commissioner Tracey  
19 Edwards?

20 COMMISSIONER EDWARDS: Present.

21 CHAIR CHRISTIAN: Commissioner John  
22 Howard?

23 COMMISSIONER HOWARD: Here.

24 CHAIR CHRISTIAN: Commissioner Dave  
25 Valesky?

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2 COMMISSIONER VALESKY: Here.

3 CHAIR CHRISTIAN: Commissioner John  
4 Maggiore?

5 COMMISSIONER MAGGIORE: Present.

6 CHAIR CHRISTIAN: Thank you. Everyone  
7 is in attendance. We'll now move to the first item  
8 on the regular agenda. Item 203, case 18-M-0084  
9 related to energy efficiency and building  
10 electrification proposals. That'll be presented  
11 today by Katie Mammen and Peggie Neville. Kevin Manz  
12 and Dave Drexler are available for questions. Katie,  
13 please begin.

14 MS. MAMMEN: Thank you. Good morning,  
15 Chair Christian, and Commissioners. Item 203 is a  
16 draft order directing proposals for energy efficiency  
17 and building electrification portfolios. Before  
18 addressing the details of this draft order, I'd like  
19 to first re-familiarize you with the process in which  
20 we are currently engaged.

21 In September of 2022, the Commission  
22 issued an order that initiated an interim review of  
23 the NYSERDA Clean Energy Fund, also referred to as  
24 the C.E.F. and the utility, New Efficiency: New York  
25 portfolios and indicated the reviews would be staged,

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2           beginning with the Energy Efficiency and Building  
3           Electrification, or E.E.B.E. portfolios.

4                   As required by that order a staff  
5           report on the E.E.B.E. portfolios was filed in  
6           December of 2022 and contained portfolio performance  
7           to date, staff observations, and a series of  
8           questions to solicit feedback from stakeholders.

9                   At the end of March of this year, the  
10          Commission received a significant number of comments  
11          from a wide range of stakeholders providing feedback  
12          on the staff report and the questions posed within  
13          it.

14                   The draft order before you today  
15          considers the staff report and the substantial public  
16          input filed in response and addresses the development  
17          of future E.E.B.E. portfolios with several key  
18          actions.

19                   Specifically, this draft order adopts  
20          a strategic framework, which is intended to better  
21          align program offerings with the Climate Leadership  
22          and Community Protection Act, or C.L.C.P.A. by  
23          focusing E.E.B.E. activities on building de-  
24          carbonization and ensuring an emphasis on delivering  
25          benefits to disadvantaged communities.

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2 It establishes clear roles for the  
3 utilities in NYSERDA collectively referred to as  
4 program administrators to play within portfolios and  
5 also delineates the responsibilities of utilities  
6 versus NYSERDA in delivering the Statewide L.M.I.  
7 portfolios to address some performance issues  
8 highlighted in the staff report.

9 The draft order indicates the  
10 Commission will not consider any newly filed or  
11 submitted E.E.B.E. related earnings adjustment  
12 mechanisms or E.A.M.s. It imposes and  
13 operationalizes the C.L.C.P.A. goal to ensure a  
14 minimum of 35 percent and a goal of 40 percent of  
15 benefits to disadvantaged communities as a result of  
16 the E.E.B.E. portfolio.

17 It directs program administrators to  
18 file proposals for post 2025 E.E.B.E. portfolios  
19 within 90 days of the issuance of this order. And  
20 finally, the draft order provides additional policy  
21 guidance and direction related to the design and  
22 operation of the E.E.B.E. programs.

23 As noted in the staff report and  
24 reiterated by a number of commenters, the current  
25 programs rely heavily on lighting measures. And

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2 while such programs were extremely effective in  
3 transforming the lighting market at this point,  
4 particularly with changes to the federal lighting  
5 standards, it is time to shift away from lighting  
6 centered programming and towards other types of  
7 measures that can support building de-carbonization.

8 To facilitate this shift, this draft  
9 order adopts a framework that institutes a structure  
10 whereby programs and measures can be categorized into  
11 three separate types; strategic, non-strategic, and  
12 neutral.

13 Strategic programs and measures are  
14 those that support building de-carbonization,  
15 including heating electrification or heat pumps, and  
16 building envelope improvements. Within this  
17 framework strategic measures must account for at  
18 least 85 percent of a program administrator's budget.

19 Non-strategic programs and -- and  
20 measures include those that, among other things,  
21 jeopardize the advancement of strategic programs and  
22 measures, increase fossil fuel or energy usage, have  
23 relatively short lives, or are naturally occurring  
24 and do not require ratepayer funding to influence  
25 adoption.

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2 Program administrators may not  
3 allocate any funding toward the non-strategic  
4 category, except under special circumstances for  
5 L.M.I. programs where a program administrator can  
6 demonstrate that a measure would meaningfully advance  
7 energy affordability.

8 Finally, neutral programs and measures  
9 are exactly that, they neither -- neither advance nor  
10 jeopardize strategic programs or measures, but they  
11 do result in overall reduction in an annual energy  
12 use. Neutral measures may account for up to fifteen  
13 percent of a program -- program administrator's  
14 budget.

15 The framework set forth in the draft  
16 order is expected to compel program administrators to  
17 evolve their portfolios away from lighting and toward  
18 the measures and programs that better align with the  
19 intent of the C.L.C.P.A. and best position us to  
20 achieve the State's ambitious clean energy goals.

21 In an effort to ensure efficient use  
22 of ratepayer funds and eliminate market confusion and  
23 program competition, this draft order sets forth  
24 specific roles and responsibilities for NYSERDA and  
25 the utilities to further take advantage of their

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2 relative strengths.

3 To improve the services provided to  
4 low to moderate income households, the draft order  
5 adjusts and streamlines the current administrative  
6 model, which the staff report indicated creates a  
7 misalignment between the design and desired outcomes,  
8 administrative delays and a comprehensive L.M.I.  
9 portfolio that has struggled to take hold.

10 Under the new L.M.I. implementation  
11 model, NYSERDA will have the primary responsibility  
12 for serving one to four family homes across the state  
13 and multi-family buildings Upstate. The draft order  
14 would require utilities due to their direct access to  
15 customers to work with NYSERDA to effectively address  
16 referrals and customer outreach.

17 In the Downstate territories NYSERDA,  
18 Con-Edison and the KeySpan companies will work  
19 alongside one another playing to each entity's  
20 strength to serve the affordable multi-family  
21 building segment. The draft order requires the  
22 affected organizations to further detail this  
23 coexistence within their forthcoming proposals.

24 This new model positions NYSERDA to  
25 integrate the federal funding authorized under the



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2           Inflation Reduction Act, which is largely targeted  
3           toward the L.M.I. sector into the ratepayer funded  
4           E.E.B.E. programs.

5                   As pertains to the non-L.M.I.  
6           portfolio roles at the outset of the C.E.F. the  
7           Commission directed NYSERDA to shift its focus from  
8           end-user incentive programs to those we consider  
9           market development, or activities that address some  
10          of the other non-financial barriers to energy  
11          efficiency and building electrification.

12                   In this draft order, the Commission  
13          provides further direction and focus by assigning  
14          NYSERDA the responsibility for Statewide efforts,  
15          targeting workforce development, codes and standards,  
16          technical assistance and audits, purposeful  
17          demonstration projects, and customer awareness.

18                   Utilities, on the other hand, will  
19          focus on end-user incentive based programs, including  
20          New York State clean heat, and building shell  
21          programs. In addition, utilities are also expected  
22          to leverage their unique ability to ensure the State  
23          electrifies effectively by incorporating -- by  
24          incorporating their insight into grid needs and gas  
25          planning as they design and implement their E.E.B.E.

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2 program activities.

3 Regarding E.A.M.s, the draft order  
4 before you today would pause any future consideration  
5 of energy efficiency and building electrification  
6 E.A.M.s included in rate proceedings or joint  
7 proposals filed after the issuance of the order.

8 This pause allows us to better  
9 understand what the budgets and targets for the  
10 energy efficiency and building electrification  
11 portfolios will look like beyond 2025 and reconsider  
12 the design of, and need for, E.A.M.s as we move  
13 forward.

14 The draft order does reinforce the  
15 need to hold all program administrators accountable  
16 for performance, but provides staff and the  
17 Commission time to determine whether positive only  
18 E.A.M.s or E.A.M.s in general are the most effective  
19 way to do so.

20 The draft order also recognizes  
21 deliberation on these topics is best undertaken once  
22 there is a better understanding of the post 2025  
23 E.E.B.E. portfolios and indicates these E.A.M.s, will  
24 be considered generically rather than individually  
25 within each utility's rate proceeding.

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2 Due to the scale of the effort  
3 required to achieve the State's ambitious clean  
4 energy and de-carbonization goals, the draft order  
5 recognizes ratepayers cannot be wholly responsible  
6 for funding those efforts.

7 The draft order, therefore, adopts a  
8 budget-bounded approach whereby utilities and NYSERDA  
9 will file proposals totaling \$1 billion per year for  
10 the post 2025 period. The draft order speaks  
11 explicitly about the need for program administrators  
12 to pursue all federal funding and to demonstrate such  
13 in their proposals.

14 It also references the recent creation  
15 of -- of a cap and invest program and states that --  
16 that the Commission intend -- intends to initiate a  
17 process once more details are available to consider  
18 how, when and to what degree ratepayer funding for  
19 these E.E.B.E. programs should wind down if feder --  
20 funding from cap and invest proceeds becomes  
21 available.

22 Within 90 days of the issuance of this  
23 order, NYSERDA and the utilities will be required to  
24 submit proposals detailing their proposed E.E.B.E.  
25 portfolios responsive to the strategic framework and

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2 other policy guidance set forth by the Commission.

3 The program administrators will also  
4 be required to hold one or more technical conferences  
5 to present their proposals to interested parties.  
6 The proposals will undergo a public comment process  
7 and then be brought back before the Commission for  
8 consideration.

9 Taken as a whole, the actions included  
10 in the draft order before you will ensure a necessary  
11 evolution and focus of the energy efficiency and  
12 building electrification portfolios that will more  
13 closely align our programs with the core objectives  
14 of the C.L.C.P.A.

15 That completes my presentation.  
16 Peggy, Kevin, Dave, and I are available to take --  
17 take any questions you may have at this time.

18 CHAIR CHRISTIAN: Thank you for the  
19 presentation and for all the hard work that went into  
20 drafting this order. It's a complex order and it  
21 deals with a very important forward looking issue of  
22 how we're going to be managing energy efficiency and  
23 electrification going forward.

24 You know, I -- I look at the  
25 improvements that you've identified to this and I

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2 think it puts us in a very good position through the  
3 established framework, to look towards the future  
4 with the goal of aligning our energy efficiency and  
5 building electrification efforts with the various  
6 ambitions established by State climate policy goals.

7 Now, today's actions establishes this  
8 framework where we can streamline and scale program  
9 delivery, better aligning our current efforts by  
10 moving away from what we previously looked at as  
11 individual utility level goals towards a focus on  
12 more Statewide outcomes.

13 And I think the timing couldn't be  
14 better, as you pointed out, the ability to integrate  
15 the federal funding that will soon be available  
16 through the Infrastructure Investment and Jobs Act  
17 and the Inflation Reduction Act, I think, puts us in  
18 a very fortuitous position, both to amplify and  
19 accelerate our efforts and make these adjustments  
20 today positions us to take full advantage of this  
21 funding.

22 So it's -- it's encouraging to see  
23 this. I'm happy to see this. I'm looking forward to  
24 what we'll receive in the next ninety days from the  
25 utilities and NYSERDA. And I -- I want to amplify

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2 this when we receive those proposals, it will be  
3 subject to further Commission review, at which time  
4 we'll decide upon those proposals and the direction  
5 going forward.

6 So thank you again. And now, we'll go  
7 to Commissioner Burman.

8 COMMISSIONER BURMAN: Thank you so  
9 much. Thanks for the presentation and clearly all  
10 the hard work that has gone into to get us where we  
11 are today. For me, it is kind of about looking at  
12 where we've been, where we are, and where we're  
13 going, and how does this all fit within the larger  
14 path forward in our energy initiatives.

15 Especially, as they relate to  
16 improving system reliability, ensuring that the grid  
17 is safe and also affordability baked in with our  
18 clean energy goals. Historically, energy efficiency  
19 has been considered a important go-to, and I think  
20 that continues today and I think it continues on the  
21 path forward.

22 We know that all that we can do on  
23 energy efficiency in a prudent and responsible way  
24 will help us as a whole, and I don't think that's in  
25 dispute. You know, we started with the system

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2 benefit charge and then it -- it morphed into the  
3 E.E.P.S., Energy Efficiency Portfolio Standard which  
4 had a number of different phases.

5 Some okay, some pretty bad, and some  
6 need for system improvement -- program improvement.  
7 And you know, for me the -- the lessons from E.E.P.S.  
8 really resound with me because it's important for us  
9 to remember that history, because that history was a  
10 lot of good faith attempts to try to do something  
11 well in energy efficiency.

12 And while there were some successes,  
13 there were a lot of missteps, and lack of  
14 coordination, and lack of ability to once we were in  
15 the program to extricate from it to make changes that  
16 were necessary and to do it in a way that had us all  
17 moving forward.

18 That then led into REV and some of the  
19 changes with energy efficiency, in particular, the --  
20 the inclusion of a number of different EAMs with E-  
21 TIPS, which I hated, I think everyone knows that, I  
22 think most people would probably agree with me.

23 And then it -- it morphed into  
24 N.E.N.Y. and -- and C.E.F. also became a part of  
25 that. And then we're now here, I guess, the acronym

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2 is E.E.B.E., right, or it should B.E.E. it should be  
3 backwards, but that's just me.

4 I -- I do think that what is really  
5 important is that the consistency in being willing to  
6 look at continuous improvement and understanding the  
7 importance of the lessons from that. The balance is  
8 always hard, how prescriptive is important, how  
9 specific, how, you know, that took us down the rabbit  
10 hole with E.E.P.S. where, you know, every dot was all  
11 about, sort of, the paper transactions, right, and --  
12 and -- and reporting.

13 But it also is then about allowing us  
14 to be flexible, but to have the right evaluation, and  
15 performance metrics, and the right accountability to  
16 see if the dollars that are being utilized and the  
17 activities that are being encouraged are actually  
18 helping us move forward.

19 And so looking now at, sort of,  
20 another framework is important to make sure that, as  
21 we move forward, we are mindful of some of the  
22 missteps. And again, keeping in mind it's really  
23 hard in this area of energy efficiency to know  
24 exactly what works. The carrot, the stick, the  
25 particular activities that may be helpful for one



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2 customer, one community can be very different in  
3 another area.

4 It can't be just done in isolation,  
5 what it looks like in terms of doing an energy  
6 efficiency upgrade, is it actually working if you're  
7 not addressing other core things that are necessary,  
8 that help with that.

9 And then, you know, the focus of  
10 targets, you know, we had the 15 by 15 years ago,  
11 we've had other targets. And so understanding that  
12 targets are helpful, but also that it's not just  
13 about trying to meet the target, they're going to be  
14 opportunities and challenges that will require us to  
15 have to pivot, will require us to look and carefully  
16 evaluate.

17 Each utility will be a little  
18 different. For some energy efficiency activities it  
19 may be harder to do even if it looks on paper like  
20 the same thing. So having to recognize that there  
21 may be more dollars that need to go into something to  
22 have a longer term success and also understanding  
23 that there -- the challenges of meeting some of these  
24 targets, you know, especially in perhaps gas energy  
25 efficiency are -- are going to be monumental.

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2 And that doesn't mean that if they  
3 don't meet them, or if there needs to be some sort of  
4 recognition of that -- that it's a fail, it just  
5 needs to be strategic in terms of looking at that.  
6 For me, I think some of the things that have been  
7 true throughout all of the different reiterations of  
8 energy efficiency has been about roles and  
9 responsibilities.

10 Looking at how to maximize private  
11 investment and the marketplace in a way that -- that  
12 helps with whatever state funding may be available.  
13 Looking at, again, the accountability and oversight  
14 and looking at what is the access necessary in terms  
15 of some data points to be able to do that properly  
16 and evaluate properly.

17 The interim review, which I think, you  
18 know, is a really important one, is just one step in  
19 a lot of our tools in review of our clean energy  
20 plan. We've started with B.E.E. -- sorry, I'm just  
21 going to make it B.E.E.

22 And -- and -- and -- and so we're kind  
23 of here now. I will point out that we do have  
24 difficulty in evaluating programs in isolation of the  
25 larger whole. And that for us, one of the things

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2 that, that is challenging is that cost for much of  
3 and we will get into that in the tracker, but cost  
4 for much of the C.L.C.P.A. and other, you know,  
5 mandates have not necessarily been clearly identified  
6 and articulated.

7 And so here, when we are looking at  
8 what does this mean, what dollars should be spent in  
9 the -- the -- the path forward it's hard to evaluate  
10 what that right pressure point is, what that right  
11 dollar amount is because it -- we can throw a lot of  
12 money at a lot of things and still not touch it.

13 And so we are going to have to be  
14 prudent and responsible in looking at all of the  
15 different programs and where we are going to need to  
16 have some little bit of balance, perhaps retract some  
17 of that funding and also, kind of, look at the  
18 transition with that.

19 I want to point out a few things that  
20 I think that staff is -- is grappling with, or at  
21 least me reviewing it sees and want to make sure that  
22 I clearly support you, but also clearly identify what  
23 I think is a perhaps challenge.

24 Throughout all of our energy  
25 efficiency programs and frameworks, starting with

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2           S.B.C. but also E.E.P.S. primarily and then REV.  
3           There were many different working groups, committees,  
4           councils, advisory folks, all with good intentions  
5           working together, sometimes it worked well, sometimes  
6           it didn't.

7                                 It's clear here that staff has  
8           identified a process improvement with the L.M.I.  
9           management committee.  Katie, I went through the  
10          different summaries of the different meetings and,  
11          kind of, overview that -- it's online that showcased  
12          to me the incredible efforts, the incredible  
13          professionalism, the incredible trying to get  
14          everyone to row the same way and -- and figuring out,  
15          you know, something needed to change.

16                                It may not get easier even though  
17          we're trying a different approach, and in fact, it is  
18          not lost on me that staff wears many hats, including  
19          the oversight of NYSERDA and it's hard to now take  
20          what I see is you're stepping up, you're wanting to  
21          take in -- in -- in -- an appropriate leadership role  
22          in that collaboration.

23                                I do think that we will need to have  
24          some check-in points earlier rather than later to  
25          make sure that it is seeming to be working well.

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2 What are some of the outside and inside problems that  
3 are presenting and how can we -- how can we figure it  
4 out.

5 That is not to say that everyone  
6 should come to that -- that working group, council,  
7 management committee, you know, saying, yeah, we're  
8 all in all good, right. I think there needs to be a  
9 healthy debate, and discussion, and pushback as  
10 appropriate because it -- we -- we can't be dictating  
11 from on high some of the different things and  
12 especially to the utilities who have to work with  
13 their customers on a lot of this, it is about them  
14 knowing their customers and the engagement with that.

15 So the opportunity for NYSERDA to have  
16 a larger role in a different way is an important one.  
17 NYSERDA needs to get it right for us and for what I'm  
18 going to be looking for is in the proposals that come  
19 back from all the program administrators, utilities  
20 as well as NYSERDA is a clear understanding of what  
21 they see as that.

22 It's not just about what you plan on  
23 doing, but about how you think the collaboration  
24 works. People should be very comfortable in sharing  
25 their concerns. People should be very comfortable in

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2            sharing where they think they have expertise, where  
3            they don't, where there will need to be some other --  
4            other, you know, folks support.

5                    Staff needs to not be, you know,  
6            drowning in the work, you need to speak up. So to  
7            me, I'm -- I'm comfortable with giving NYSERDA a  
8            different role, but I'm going to be looking at what's  
9            presented to really see that they understand the  
10           expectations.

11                   And that's coming back to us for  
12            approval on, and it needs to be sufficient and  
13            detailed enough so that we can clearly see where some  
14            of the challenges may be. The order does, sort of,  
15            identify not only that this is a forward-looking post  
16            2025 focus, but it identifies that there needs to be  
17            an alignment with the federal funding, as well as,  
18            the still unclear cap and invest program. I think  
19            the order is diplomatic in addressing that, we should  
20            be less diplomatic.

21                    To the extent that NYSERDA is  
22            identified as the State lead on a lot of these  
23            federal funding dollars that -- that will impact what  
24            we do, it's appropriate that NYSERDA has this larger  
25            role.

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2 However, we cannot be blindsided or  
3 kept out of the loop in a -- especially staff, in  
4 being involved in the decision-making that ultimately  
5 impacts us as economic regulators and the -- the --  
6 the -- the -- the monies that are there. We need to  
7 make sure that the alignment is done sufficiently,  
8 that we feel comfortable, it is prudent and we are  
9 doing and -- and responsible.

10 To the extent that we already have  
11 indicated publicly that we care about what the  
12 utilities are doing on federal funding. Most of the  
13 utilities, large utilities have filed documents  
14 indicating what they're doing.

15 Federal funding is not -- it's not as  
16 clear, there's going to be many different ups and  
17 downs with that, many different changes. We need to  
18 help everybody working together to access the  
19 funding, but we also need to be looking at what does  
20 that mean so that we don't keep just saying, okay,  
21 great, you got that and we're going to continue  
22 collecting from ratepayers.

23 There is a recognition that if there  
24 are monies through the cap and invest that somehow  
25 that perhaps can, you know, help us alleviate the

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2 rate pressure here across the board. I worry that  
3 that will never happen.

4 I think that the diplomacy in the  
5 order needs to be a lot clearer, in that we need to  
6 figure out the off ramp in a way that's much more  
7 mindful of the rate -- upward rate pressures that  
8 keep happening. In fact, I believe, this order for  
9 the first time ever has identified expressly that  
10 ratepayers cannot continue to bear the brunt of this.  
11 You say it much better than I do, but I'm just  
12 cutting to the chase.

13 That is something that us, as  
14 individual Commissioners for the most part have said  
15 publicly, but it is the first time it is actually in  
16 an order. It's larger than the energy efficiency or  
17 the B -- be energy efficiency.

18 It is really for us to now go beyond  
19 just the words, but to try to plan out what that  
20 looks like without putting at risk reliability,  
21 safety, and also ensuring that there's the financial  
22 health of our utilities is still sound because that  
23 helps the customers.

24 We need to be understanding that there  
25 is a continued well-meaning focus on increasing our



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2 clean energy mandates in a way that seems to have  
3 direct and indirect economic impact for the  
4 ratepayers.

5 So it is not lost on me that here  
6 we're saying ratepayers can't continue to bear the  
7 brunt of all of this, but what if there's more  
8 legislation that gets signed that we have to deal  
9 with. I think that for us it's important to help,  
10 sort of, set the stage that us as a commissioned body  
11 has an obligation to look at all of our statutory and  
12 regulatory obligations and ensure that we are setting  
13 the right roadmap and that we are not continually in  
14 a defensive position.

15 And I think that it's important to me  
16 that the order and I think every order should  
17 continue with that and help to build upon that, what  
18 does that look like. Because we're going to need to  
19 be creative in how to implement current legislation  
20 and perhaps future legislation without just being  
21 check the box, have to do it, right, we -- we have to  
22 -- we have to start figuring that out.

23 Some of the things that we've asked  
24 the utilities to do, like the marketplace and now  
25 saying we're going to -- the online marketplace we're

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2           going to sort of move away from does have me a little  
3           concerned because there's been a lot of investment in  
4           trying to get those right.

5                   And I worry that there may be --  
6           depending on what it looks like, there may be still  
7           some more value there. And there also may be value  
8           in how do we look at perhaps giving them more  
9           flexibility rather than, sort of, dictating,  
10          everybody must have, you know, this, working within  
11          that the same way we don't appreciate prescriptive  
12          legislation, I think we need to, sort of, look at it  
13          from the flexibility as well.

14                   Some of the things in here, I think,  
15          are very important. There was also some language in  
16          here about no longer subsidizing gas appliances. Can  
17          you speak a little bit to why we're being  
18          prescriptive in that?

19                   MS. NEVILLE: Sure, happy to. So  
20          specifically with the gas appliances as -- as Katie  
21          mentioned, the strategic framework really is trying  
22          to impose some shifting that not only would evolve  
23          the programs away from, kind, of what we always refer  
24          to in the energy efficiency space as low-hanging  
25          fruit, lighting is often cited as that.

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2 But gas -- residential gas, boilers  
3 and furnaces has also been a type of low-hanging  
4 fruit, we've been at that for many decades. In the  
5 State of New York, we have a certain market condition  
6 where higher the -- the standard for gas equipment is  
7 set at a national level.

8 And so our market condition in New  
9 York State is that there are efficiency levels that  
10 are far exceed the standard. So in part, obviously  
11 our climate goals have us looking at switching off of  
12 fossil fuel, that's not the only reason why we're  
13 looking at that -- in this order.

14 And part of that looks at trying to  
15 design programs that are not really targeting a lot  
16 of free riders. And so regardless of the size of  
17 budgets -- budgets, excuse me, it's still finite.  
18 And so we're trying to direct the funding where we  
19 think we can make the most impact.

20 So specifically, with things like gas  
21 efficiency, predominantly those programs to date have  
22 been residential gas, boilers and furnaces and  
23 behavioral home energy reports. We need to really  
24 look at tightening building envelope shell work,  
25 that's a very challenging area to -- to fund and to

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2 kind of get right, it's -- it's messy work, it's  
3 complicated and it costs a lot.

4 So I think from the perspective of  
5 this order, kind of, laying out a transition from  
6 what we've been doing for the last number of years  
7 towards where we need to go, gas efficiency can also  
8 look at tightening up building envelope and that  
9 makes sense on day one, regardless of your heating  
10 fuel.

11 So while we look at the transition,  
12 while people are still using natural gas as a heating  
13 source, they will save money, we will save emissions  
14 by looking at building envelope improvements. And so  
15 that's kind of the -- the shift that this is  
16 dictating.

17 COMMISSIONER BURMAN: Thank you. So I  
18 think that that's going to be a challenge. I  
19 understand, sort of, the concern on free riders, but  
20 I think that some of that also needs to be looked at  
21 in that, are we perhaps in certain circumstances  
22 inappropriately chilling not only customer choice,  
23 but low income customers and others who aren't free  
24 riders.

25 We're -- we are blessed in New York to

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2 have, you know, appliances that are of a high  
3 quality. And so you know, we don't necessarily want  
4 to see going backwards in that people do not embrace  
5 energy efficiency because we're, sort of, picking and  
6 choosing, you know, and -- and -- and -- and putting  
7 at risk, perhaps safety and -- and perhaps not  
8 upgrading when they need to.

9 I do think that when you look at the  
10 free ridership issue, that could also be something  
11 that in the E.V. space people would say, right, so  
12 here we're focused on it, using that as, you know, a  
13 rationale, but not necessarily examining that across  
14 the board.

15 What does it mean from a free  
16 ridership perspective, no problem looking at that  
17 issue, but I think that gets to siloing the programs.  
18 I will say that the order, while it is clear in some  
19 of the things that are, you know, definites, there's  
20 language in the order that says we recognize as we  
21 move forward that we may need to make modifications  
22 and changes.

23 And that means that as we move  
24 forward, it is not just the energy efficiency program  
25 that we're looking at, we have to be looking at what

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2           does it mean from -- in a reliability perspective,  
3           what does it mean from a cost perspective, what does  
4           it mean in terms of perhaps some of the unintended  
5           consequences by having the prescription, you know,  
6           anti -- the incentives for the gas appliances,  
7           perhaps positively.

8                   It includes more on the building  
9           envelope issues that we need to address,  
10          understanding that's more costly. So we have to not,  
11          you know, not see it as a negative, but it also means  
12          that we may need the unintended consequence may be  
13          that some of the hybrid heating solutions that would  
14          pair nicely an incentive for, you know, a gas  
15          equipment paired with a heating pump may actually be  
16          a perfect solution.

17                   And so looking at some of those hybrid  
18          heating solutions and incentives that would go to  
19          that overall rather than sort of saying, nope,  
20          heating pump yes, gas part of it, no because that may  
21          actually disincentivize the use of the heating pump.

22                   So just things for us to be mindful  
23          of, it will be the utilities and the customers and  
24          those folks involved in the, you know, on the ground  
25          stuff who will know where some of the unintended

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2 consequences are.

3 And so I look -- I look to them in  
4 sharing that, but what I'm hearing is, look,  
5 understandably a lot of the low hanging fruit was  
6 utilized, right, the lighting. And so we are trying  
7 to get more sort of deeper savings, deeper energy  
8 efficiency activities.

9 And so we're trying to -- to address  
10 that and so that's kind of pushing it up that way.  
11 In here -- and -- and one of the things that I paused  
12 on is there was language about no longer focusing on  
13 cost effective energy efficiency.

14 Can you kind of walk me through what -  
15 - because that concerned me and -- and I -- I think  
16 that it's important for us to flush that out.

17 MR. MANZ: Sure. So I think that the  
18 order is -- is saying we -- we don't want to use cost  
19 effectiveness and in parentheses as a -- the -- the  
20 singular focus on these portfolios. I think cost  
21 effectiveness means different things to different  
22 people, different parties.

23 And can be defined at different  
24 levels. I think, you know, from a traditional B.C.A.  
25 test in economics all the way down to kind of a

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2 customer cost effectiveness. So it's not that cost  
3 effectiveness per se is -- is -- is not important, it  
4 is.

5 But as you pointed out earlier, these  
6 energy efficiency portfolios are very complex, it's  
7 not just a single technology, there are many  
8 technologies. So if you say cost effectiveness is  
9 the singular focus, you may end up with just very  
10 inexpensive measures like lighting that we've seen in  
11 the past.

12 So because it's a diverse portfolio we  
13 need to look at, kind of, cost effectiveness of each  
14 of these different mem -- measures within the  
15 portfolio and kind of try to optimize around that.

16 COMMISSIONER BURMAN: So I -- I  
17 understand that, and I very much appreciate that in  
18 this order, again, it is the sort of the first time  
19 that we, I think, as a draft order are sort of trying  
20 to thread that needle. The B.C.A. model for energy  
21 efficiency and cost effective to meet the targets, I  
22 think, wasn't working.

23 And it is not to say we don't care  
24 about cost, but I think it's about how do we look at  
25 it, how do we examine it, and how does that match up.



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2 On the other hand, we also have to keep in mind we  
3 can't just say, but it's all good because societal  
4 benefits outweigh, you know, and -- and -- so it is  
5 sort of a recognition of what we were all speaking in  
6 terms of costs and benefits needs to be clear. How  
7 we are actually helping so that we are not using that  
8 to pick our favored activity, program, or fuel of  
9 choice.

10 And I think that that sort of aligns  
11 with the understanding of -- the importance of, in  
12 this case, the energy efficiency, but also in terms  
13 of the importance of how hard it is and looking at  
14 what that means from our oversight and  
15 accountability, so I appreciate that.

16 I do want to have you walk through  
17 what we are saying on the EAMs because I worry that  
18 at a -- it -- it -- it appears like we are looking to  
19 get rid of EAMs in energy efficiency. And just keep  
20 in mind under REV we have about seven different EAMs  
21 that were utilized.

22 And I just want to get a sense, again,  
23 it gets back to that carrot and stick approach and  
24 what that looks like. So if you can explain that a  
25 little bit.

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2 MR. MANZ: Sure. So the order is --  
3 is really putting up a pause on the energy efficiency  
4 and building electrification related EAMs only. And  
5 -- and that's really because we -- we are looking  
6 forward here in -- in this order to that beyond post  
7 2025 look.

8 The E.A.M.s that we've -- we've  
9 traditionally seen to date through rate cases have --  
10 have been very focused on that, share the savings or  
11 cost reduction. And that doesn't really line up  
12 great with this future looking portfolio and  
13 framework that we're -- we're talking about here.

14 So it's -- it's just a pause to kind  
15 of reevaluate. I don't think we're saying get rid of  
16 them for good and never look back. But maybe there's  
17 something kind of down the road in the future that we  
18 would be able to look at post 2025.

19 But just for now, it -- it doesn't  
20 work with -- with where we're transitioning to.

21 COMMISSIONER BURMAN: Okay. Thank  
22 you. I think that's clear. Obviously, there's  
23 always a need to look at, sort of, the metrics and  
24 the opportunities for helping to increase activities  
25 that we're trying to drive. And then, also keeping

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2 in mind that it is something that needs to be clearly  
3 evaluated in a way that doesn't improperly penalize  
4 or improperly give.

5 So to the extent that I -- I -- I  
6 understand this is not -- this is something I think  
7 that -- that has more legs outside of just here,  
8 right, across the board, what is the carrot and stick  
9 approach, how are we helping, what does it mean that  
10 we're doing and -- and trying to get under it.

11 So you know, I don't -- I don't really  
12 have -- I don't really have any more questions for  
13 you. I will say that for me, I can support this  
14 because I see that there is a path forward and that  
15 there is going to be more engagement and looking back  
16 to what comes to the Commission in a way that I think  
17 is helpful.

18 It's really also going to be  
19 challenging for utilities in particular to put  
20 forward plans for 2025 -- post 2025 while they're  
21 still figuring out a lot of the other levers that  
22 they have to do. But we do need to look at this in -  
23 - in a larger whole.

24 There is language about it being  
25 budget bound. I will say and remind folks, there

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2           were several times, not just in the energy efficiency  
3           space, EAPs comes to mind, but throughout where no  
4           matter how budget bound we try to be, every -- if you  
5           piled on all of the different budget bound programs,  
6           it's really a pretty big amount, right, that's on the  
7           ratepayers.

8                   We have a fiscal responsibility to the  
9           ratepayers but also, there were opportunities that  
10          happened throughout where we lifted off the budget  
11          bound by either retroactively, not me, but  
12          retroactively approving EAPs activities because, you  
13          know, we just kept saying, keep doing it, keep doing  
14          it without understanding that it hadn't gotten  
15          approved or sweeping from somewhere else.

16                   And I think that we need to be  
17          cognizant of, that's all kind of, you know, it's  
18          limited dollars to go around and we need to see the  
19          whole. So I -- I thank you. I thank you for your  
20          hard work. I think you're going to really need a lot  
21          of support and resources and I appreciate it.

22                   What -- one -- one -- one question I  
23          do have. What is the next part of our interim  
24          review, we started with B.E.E. what's the next?

25                   MS. NEVILLE: Sure. I can answer

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2           that.  Katie had mentioned the order, last September  
3           I believe it was, where the Commission commenced the  
4           reviews.  And that it's a pretty large portfolio that  
5           the reviews are overseeing both the utility energy  
6           efficiency and building electrification programs, as  
7           well as, the entirety of the clean energy fund, which  
8           has four distinct portfolios.

9                   The order in September sequenced those  
10           and so it recognized that we should start with  
11           E.E.B.E. as we are, and then what will come next will  
12           be New York Green Bank and NYSERDA's innovation and  
13           research portfolio.

14                   New York Sun also has its own, kind  
15           of, procedural path that's been set up for New York  
16           Sun review.  So the timelines for that is both of  
17           those portfolios are authorized through the end of  
18           2025 as well.

19                   So in order to avoid cliff years, as  
20           we have had from lessons learned in the past where we  
21           come right up to the end of those periods, the  
22           Commission laid out a process where we would have  
23           NYSERDA filing something to kick off the review a  
24           petition of some sort by June of 2024 to allow a full  
25           year if necessary to move that through the process.

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2 So we would expect something mid-year  
3 next year to kick off at -- by the latest mid-year  
4 next year for Green Bank and then innovation and  
5 research.

6 COMMISSIONER BURMAN: Great. Thank  
7 you so much. No further questions.

8 CHAIR CHRISTIAN: Thank you. All  
9 right. Commissioner Alesi.

10 COMMISSIONER ALESI: Thank you,  
11 Chairman. I'm sitting here and I'm having just a  
12 little bit of fun with this as I'm trying to think of  
13 -- of correlating stories and the one that keeps  
14 coming to my mind is the -- the moon shot that many  
15 of you were not alive when it all happened.

16 So as I was, by the way, and maybe  
17 John Howard might be the only other guy there, but  
18 I'll try to make this long story short. It was  
19 unthinkable at the time. There was a lot of  
20 political rivalry between the United States and our  
21 adversaries at the time, a big race, who gets to the  
22 moon.

23 Why go to the moon, why spend all the  
24 money, what will we get out of it? So everybody here  
25 looking back can say, well, we got all of this, we

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2 got all of that, we'll continue to get stuff from  
3 that moon shot as science and technology advance in  
4 the aftermath of all the time, and effort, and  
5 gambling that went into the aerospace effort.

6 That basically is what we're doing  
7 here. We're starting from scratch, trying to change  
8 but society has always embraced as this works, why  
9 change it, who cares what it costs, it's going to  
10 cost. In terms of dollars, this will cost more, this  
11 pursuit is going to cost more.

12 And on top of those increased costs,  
13 there will be more increases. But you're spending  
14 money to get something in return, can't argue the  
15 increased costs, but what you can do is say we better  
16 have a very solid dedicated commitment pursuit of  
17 funding.

18 Be careful where we restrict funding  
19 while we're trying to gain money as well. So -- but  
20 this -- this -- this launch is not going to be free,  
21 but it will free us from what we've been doing to  
22 destroy our environment and it'll free us to deliver  
23 a better environment decades down the road.

24 Decades may be more than just a few  
25 decades, but we'll get there. There will be

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2           reversals, to say the least.  And during the time  
3           when we have reversals there'll be some changes.  New  
4           things will be discovered.  So those are the unmarked  
5           outgrowths of this effort that nobody's planning on  
6           now, satellite phones, now phones that work  
7           wirelessly, those kinds of things, Teflon pans.

8                   I'm not really shilling for the Air  
9           Force right now, but I'm trying to draw a conclusion  
10          as I see that this is really a magnanimous effort.  
11          And if it's anything like what we've seen in that  
12          moon shot pursuit that there's going to be failures  
13          and there'll be frustration.

14                   On the other end of that, there are  
15          going to be people like you, highly professional  
16          people, other highly professional people, people  
17          whose minds are so bright and brilliant that they can  
18          actually make this thing happen over the years and  
19          there'll be changes, I said financial changes,  
20          scientific changes, legislative changes as always.

21                   Somebody will have a way to have their  
22          opinion said legislatively, but there would be no  
23          retreat.  There cannot be a retreat, this effort's  
24          too big, it's too promising and it demands not only  
25          our attention, but it demands our action.



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2 The earth is setting its gravitational  
3 pull on our hearts and minds to do this and you can't  
4 fight gravity, it's got to be done. So it becomes  
5 increasingly clear to me that human effort  
6 collectively will make this happen with the  
7 frustrations and the setbacks.

8 But with the constant goal of  
9 achieving, freeing ourselves from how we are  
10 electrifying our lives and freeing the earth from the  
11 painful cost of doing it that way. So we have to go  
12 in this direction and we have to put our hands in  
13 both pockets and other pockets because it won't be  
14 cheap and who cares.

15 We know where we have to go so let's  
16 go to the most expensive restaurant in town, get the  
17 best meal and pay the biggest price. That's an  
18 analogy, by the way. I see a few of you smiling out  
19 there, you want to join me, just let me know.

20 Thank you for the report. I'm sure  
21 that it wasn't just a 15-minute job, a lot of effort  
22 went into it. And we have more to come in three  
23 months or so, we'll get some more additional  
24 information, funding, et cetera. We'll look forward  
25 to hearing it. Thanks.

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2 CHAIR CHRISTIAN: Thank you.

3 Commissioner Edwards?

4 COMMISSIONER EDWARDS: I do not have  
5 any comments or questions. Thank you for all of your  
6 hard work and I look forward for the next update.

7 CHAIR CHRISTIAN: Thank you.

8 Commissioner Howard?

9 COMMISSIONER HOWARD: Thank you.

10 Thank you. First of all, I want to commend everybody  
11 for this, their hard work and commend you  
12 particularly for now, I believe, Commissioner Burman,  
13 this is our first, maybe more reality based order  
14 we've seen in some time and I -- I appreciate that  
15 very much.

16 One of the things the program changes  
17 is -- and -- and I go way back to observing these  
18 programs a long time as well. And back after I was  
19 on Apollo 17 and it was -- but in any event, one of  
20 the things is many of these things, particularly  
21 decades ago, when we began we were there to  
22 incentivize technologies, quote, unquote, prime the  
23 pump.

24 Apparently, we have now decided that  
25 the pump on lighting is plenty primed and that market

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2           forces will drive lighting efficiency going forward.  
3           In that list, are there any technologies that -- that  
4           we believe yet that will follow lighting into the --  
5           maybe we don't need to subsidize anymore because the  
6           market forces are just obvious in terms of their  
7           outcomes?

8                   MS. NEVILLE:   I mean, I think the --  
9           the lighting -- we've been talking about energy  
10          efficiency space for -- for many years now, the  
11          eventual lighting cliff, you never know exactly when  
12          you're at the edge of the cliff, I guess, but we're  
13          saying here, you know, really, if you look back even  
14          in -- in, you know, early in my career to where we  
15          are with lighting, it's just amazing what has  
16          happened in that marketplace as you point out.

17                   I think, you know, similarly, with  
18          some of the residential gas equipment, the market has  
19          moved as we've talked about with Commissioner  
20          Burman's question.  There's also been a real push  
21          both, you know, there were some challenges at the  
22          federal level, but also New York State is doing some  
23          things with other appliance standards.

24                   So that's something that I think staff  
25          as well as the program administrators watch to see,

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2 okay, the whole concept of relying on codes and  
3 standards is an important one, right, because that's  
4 saying, okay, once we -- once we're at the point  
5 where we can adopt a code or standard, we can kind of  
6 step back from having to incent it.

7 But the incentives are very important  
8 to get us to that point where we can adopt those  
9 codes and standards. So while I don't have kind of a  
10 -- a long list of those things, there's, you know,  
11 not anything as cheap and as effective as lighting  
12 has been, you know, I -- I would say that clearly.

13 But those are the types of things that  
14 I think we'd be watching with the programs and we  
15 have robust evaluation work that looks at those  
16 things over time to see when we have a certain level  
17 of market share, that's when we step back on our  
18 incentives.

19 COMMISSIONER HOWARD: Thank you. And  
20 I just need -- I think it's important that we put the  
21 -- the magnitude of this -- this effort. I  
22 understand that from your report that 200,000  
23 buildings annually will need to be electrified in  
24 order through this planning period to reach the  
25 mandate. Is -- is --

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2 MS. NEVILLE: Yeah.

3 COMMISSIONER HOWARD: -- that about  
4 right?

5 MS. NEVILLE: That's about right, and  
6 I will say we -- we did borrow that from -- I think  
7 some other work that was done within the Climate  
8 Action Council. But really to put it in terms of  
9 scale that people could understand, right now we're  
10 treating about 20,000 homes today, not just  
11 electrification, but whole house weatherization type  
12 things.

13 And in order to get to the trajectory  
14 that C.L.C.P.A. would require, that really does need  
15 to scale to about a 200,000 per home.

16 COMMISSIONER HOWARD: So in order of  
17 magnitude?

18 MS. NEVILLE: Absolutely. And sustain  
19 that year after year. So it is not insignificant and  
20 very much like a moon shot, I would say.

21 COMMISSIONER HOWARD: You know, just  
22 so to -- again, to the -- the issue of us, our desire  
23 to cap ratepayer spending at about a billion dollars,  
24 clearly we're not going to get a 10X result for a  
25 billion dollars a year.

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2 So -- and that number is probably even  
3 just not knowable, but it is -- even if we take the  
4 current numbers and extrapolate them out, this is  
5 just a -- an enormous amount of money. And you know,  
6 and how we -- how we get there is -- is going to be a  
7 real challenge.

8 And this -- I think this is also a --  
9 a challenge to others in government that they need to  
10 step up and -- and -- and do this. I think it's also  
11 very important that we keep educating policymakers  
12 about the enormity of this task.

13 It is -- it is great to say we want to  
14 go to the moon, but you got to pay the bill to get  
15 there. So I think that will be an important part of  
16 this and I think part of staff's advocacy on this is  
17 a continued, you know, sharp pencil on -- on these  
18 potential costs that there'll be necessary.

19 With, you know, the -- the replies are  
20 due in 90 days, when do you think we might see  
21 actually an order coming back to us, I mean, because  
22 it's -- it's -- it's -- time is now, right?

23 MS. NEVILLE: Absolutely. So I have  
24 given up trying to predict when things come to  
25 session, so I won't give you exact answer, but I can

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2 say part of the --.

3 COMMISSIONER HOWARD: Intention, how's  
4 that -- how's that?

5 MS. NEVILLE: The intention is 90-day  
6 for proposals and then as Katie mentioned, there'll  
7 be a series of technical conferences, which we feel  
8 is really important part of the process, so beyond  
9 just the SAPA process where there will be written  
10 comments, the program administrators will be able to  
11 present their proposals to interested parties.

12 They'll be able to ask questions that  
13 will be staged so that parties can have that  
14 interaction while they're formulating their comments.  
15 All that said, we'll go through the process, staff  
16 will have a, you know, very large task in taking all  
17 the input that we'll receive through that process to  
18 formulate our recommendations to come back to the  
19 Commission.

20 My prediction on that is we're aiming  
21 for end of -- I think, the comments would come in  
22 probably January timeframe as we've plotted it out.  
23 So we'd be looking at probably end of Q1, early Q2 to  
24 come back to the Commission with our recommendations.

25 COMMISSIONER HOWARD: You know, one

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2            thing this duality that we have now permanently -- we  
3            hope to permanently adopt, NYSERDA versus the  
4            utilities.  When utility falls short or runs through  
5            management problems or any number of even worse  
6            outcomes, we have mechanisms by which we can protect  
7            ratepayers and -- and discipline the -- the  
8            utilities.

9                    What -- what sort of -- I don't see we  
10            have those same mechanisms with NYSERDA should they  
11            be wanting in any given program.  So I -- how would  
12            you respond to that?

13                   MS. NEVILLE:  Sure.  Obviously,  
14            they're -- they're not a shareholder company, so the  
15            -- some of the -- the mechanisms that you may be  
16            referring to obviously wouldn't be at play.  The --  
17            the order does speak to outside of E.A.M.s, the need  
18            to hold program administrators, all of them,  
19            including NYSERDA accountable.

20                    That will kind of -- in the first  
21            part, play out through the proposal process where  
22            we'll be kind of really honing in on what the  
23            performance metrics are, what will be the, you know,  
24            flexibility granted to folks, what will be the  
25            accountability expected for that.



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2 The order also speaks to, you know, I  
3 think one of the Commissioners used the term, people  
4 have to get this right, right, like, we really need  
5 to make progress here. And so the order does speak  
6 to, if there are failings, we can revisit that and we  
7 can, you know, take recommendations back to the  
8 Commission about reducing budgets, taking away  
9 responsibility, shifting roles.

10 So I -- I think from that perspective  
11 that would apply across all program administrators,  
12 not just, you know, utilities versus NYSERDA, but  
13 generally speaking, if the program administrator is  
14 not performing we shouldn't continue to let that  
15 slide, right, we need to really kind of bring that  
16 back and take a hard look at what we would need to do  
17 there.

18 COMMISSIONER HOWARD: Well, great.  
19 Thank you. And look, I -- I do appreciate that we  
20 are now saying publicly that we've all said privately  
21 for some time. And again, terrific work and we look  
22 forward to the next order.

23 CHAIR CHRISTIAN: Thank you.

24 Commissioner Valesky?

25 COMMISSIONER VALESKY: Thank you, Mr.

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2 Chair. Thank you, Peggie, and Katie and to your team  
3 for -- for the really good work here. I don't have  
4 any questions, but just I want to state that I'm  
5 pleased to see a number of the things in this order,  
6 including the very clear roles you've delineated for  
7 NYSERDA versus the utilities, I think that's  
8 important.

9 Appreciate the language and commitment  
10 in regard to ratepayers cannot be wholly responsible  
11 for funding, and that we're requiring program  
12 administrators to pursue all federal funding, I  
13 think, that's important.

14 I think you're speaking to the cap and  
15 invest program that may provide an opportunity down  
16 the road whereby ratepayer support can, I think, wind  
17 down were your -- were your words, I think that's  
18 really important.

19 And it's also important as previous  
20 speakers have indicated that these proposals will be  
21 coming back to us, Peggie, as you just said, to kick  
22 off the formal review process and that they will come  
23 back to us for eventual consideration as well. So  
24 well done, thank you.

25 CHAIR CHRISTIAN: Thank you. And

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2 Commissioner Maggiore?

3 COMMISSIONER MAGGIORE: Thank you. I  
4 -- I don't have any questions. I don't really have  
5 anything to add in terms of comments to this  
6 discussion, but I do want to thank you for the  
7 presentation and you know, as my colleagues have  
8 said, there's -- the -- the order is substantial and  
9 reflects a lot of good work over a lot of time, so  
10 thank you very much, but I don't have anything  
11 additional to add.

12 CHAIR CHRISTIAN: Thank you,  
13 Commissioner. At this time, I'll do a call for a  
14 vote. My vote is in favor of the recommendations to  
15 address the energy efficiency and building  
16 electrification proposals as discussed. Commissioner  
17 Burman, how do you vote?

18 COMMISSIONER BURMAN: Yes.

19 CHAIR CHRISTIAN: Commissioner Alesi?

20 COMMISSIONER ALESI: Yes.

21 CHAIR CHRISTIAN: Commissioner  
22 Edwards?

23 COMMISSIONER EDWARDS: Yes.

24 CHAIR CHRISTIAN: Commissioner Howard?

25 COMMISSIONER HOWARD: Yes.

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2 CHAIR CHRISTIAN: Commissioner

3 Valesky?

4 COMMISSIONER VALESKY: Yes.

5 CHAIR CHRISTIAN: And Commissioner

6 Maggiore?

7 COMMISSIONER MAGGIORE: Yes.

8 CHAIR CHRISTIAN: Okay. We have  
9 sufficient votes, the item is approved and the  
10 recommendation is adopted. Thank you everyone for  
11 your time today. Okay. We will now begin -- one  
12 moment, please.

13 We'll now move to the second item for  
14 discussion today. Item 202, case 22-M-0149. As it  
15 relates to the first annual information report on the  
16 overall implementation of the Climate Leadership and  
17 Community Protection Act, C.L.C.P.A.

18 It'll be presented today by Jessica  
19 Waldorf. Along with her will be Marco Padula, Mary  
20 Ann Sorrentino, Liz Grisaru, Joel Andruski, Caitlyn  
21 Edmondson, Brandon Goodrich, Makayla Loeb, all of  
22 which will be available for questioning -- questions  
23 if needed. Jessica, please begin.

24 MS. WALDORF: Just give us one moment.

25 We're getting the slides up.

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2 CHAIR CHRISTIAN: Okay.

3 MS. WALDORF: There we go. So good  
4 morning, Chair Christian, and Commissioners. My name  
5 is Jessica Waldorf and I'm the Chief of Staff and  
6 Director of Policy Implementation here at the  
7 department.

8 I'm here today with other members of  
9 staff to present the first annual informational  
10 report on overall implementation of the Climate  
11 Leadership and Community Protection Act, or as I will  
12 refer to it throughout the presentation, the  
13 C.L.C.P.A.

14 While I will be using a PowerPoint  
15 presentation to provide a visual overview of the  
16 report, a document that includes additional detail  
17 will be filed in the C.L.C.P.A. case 22-M-0149. Next  
18 slide, please.

19 The C.L.C. -- C.P.A. that was enacted  
20 in 2019 contains emissions reduction and clean energy  
21 targets shown here, including some that have been  
22 updated since. These include increasing the  
23 distributed solar goal from 6000 megawatts by 2025 to  
24 10000 megawatts by 2030, which was adopted by the  
25 Commission in April of 2022.

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2 It also includes an increase to the  
3 energy storage target from 3000 megawatts by 2030 to  
4 6000 megawatts by 2030. Regarding this energy  
5 storage target, D.P.S. staff and NYSERDA filed an  
6 updated energy storage roadmap in December of 2022  
7 that is currently under review. Next slide, please.

8 The Commission's May 22 -- May 2022,  
9 C.L.C.P.A. initiating order instituted this  
10 proceeding to both track and assess the progress made  
11 towards meeting the C.L.C.P.A. mandates and to  
12 provide policy guidance as necessary for the  
13 additional actions needed to help achieve the  
14 objectives of this law.

15 This first annual report provides a  
16 summary of recent efforts and outcomes in relation to  
17 several key areas of -- of the implementation of the  
18 C.L.C.P.A., including renewable electricity, energy  
19 storage, transmission, energy efficiency, and  
20 building electrification, or as it was previously  
21 referred to in the last presentation, E.E.B.E.  
22 efforts, as well as the transportation sector.

23 It also provides an overview of the  
24 progress on achieving targets mandated within the  
25 Renewable Energy Program under the Commission's Clean

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2           Energy Standard, overall energy savings, energy  
3           generation, and emissions reductions across all  
4           C.L.C.P.A. related programs, a summary of electric  
5           and gas recoveries to date -- cost recoveries to date  
6           between the periods of time 2020 through 2022.

7                   We show energy savings, energy  
8           generation, and emissions reduction, and we show the  
9           cost recoveries for both electric and gas for the  
10          calendar year 2022. Consistent with the Commission's  
11          initiating order, this report focuses mainly on the  
12          prior calendar year's metrics for this first report.

13                   We provide the information between the  
14          years 2020 through 2022 to represent the full --  
15          first full year after the C.L.C.P.A. was enacted in  
16          2019, to provide some historical information, as well  
17          as the '22 calendar year separated out. Next slide,  
18          please.

19                   In terms of progress made towards the  
20          C.L.C.P.A. renewable energy targets, the Commission,  
21          in conjunction with NYSERDA, has made significant  
22          progress in advancing the development of renewable  
23          energy and transmission projects, as well as  
24          decreasing the greenhouse gas emissions in the  
25          electricity sector.

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2 With a 120 renewable energy and  
3 transmission projects in active development or  
4 construction, including large-scale solar, land-based  
5 wind, and offshore wind, 66 percent of the State's  
6 electricity will come from renewable energy sources  
7 on the way to the goal of 70 percent renewable energy  
8 by 2030, and towards the zero-emission grid by 2040  
9 targets.

10 This builds on the State's previously  
11 existing renewable energy resources, including the  
12 State's substantial amount of hydroelectric  
13 generation. Throughout 2021, 2022, and 2023, a total  
14 of 14 additional large-scale renewable energy  
15 projects entered commercial operation, accounting for  
16 an addition of over 680 megawatts of renew -- new  
17 renewable energy.

18 In December 2022, the Department of  
19 Environmental Conservation published a New York State  
20 Statewide greenhouse gas emissions reduction --  
21 emissions report that provides a detailed account of  
22 greenhouse gas emissions in the State from the period  
23 of time 1990 through 2019.

24 This report shows that emissions in  
25 the electricity sector has decreased by about 46



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2 percent in this time period, which shows some of the  
3 significant progress the State has made in decreasing  
4 the emissions associated with electric generation to  
5 date. Next slide please.

6 The Commission has a longstanding  
7 policy of promoting renewable energy resources to  
8 meet our responsibility to preserve environmental  
9 values and conserve natural resources. Prior to the  
10 adoption of the C.L.C.P.A., the Commission  
11 implemented programs and mechanisms designed to  
12 support the decarbonization of the State's electric  
13 system.

14 These initiatives have since been  
15 expanded, where necessary, to support the  
16 C.L.C.P.A.'s requirement of 70 percent renewable  
17 energy by 2030 and a 100 percent emissions-free power  
18 grid by 2040. Specifically, in October of 2020, the  
19 Commission formally adopted the C.L.C.P.A.'s clean  
20 energy deployment targets.

21 The actions shown here are a subset of  
22 all of the actions the Commission has taken since  
23 2020, to support the development of both large and  
24 small-scale renewable energy resources, as well as  
25 energy storage deployment.

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2 Next slide, please. Following  
3 enactment of the C.L.C.P.A., as well as the  
4 Accelerated Renewable Energy Growth and Community  
5 Benefit Act, the Commission has undertaken several  
6 steps to implement forward-looking transmission  
7 planning efforts.

8 These recent measures to foster and  
9 steer transmission development in support of climate  
10 goals include those listed here, and we anticipate  
11 more work to support the continued development of the  
12 transmission and distribution systems to allow for  
13 integration of more renewable energy resources and to  
14 support the State's electrification efforts.

15 Next slide, please. Since 2020, New  
16 York has seen numerous successes in the development  
17 of clean transportation systems, including the  
18 Commission's July 2020 order approving the Electric  
19 Vehicle Make Ready Program.

20 This program included a \$701 million  
21 budget, of which \$206 million dollars was directed  
22 directly to disadvantaged communities. The  
23 Commission's EV Make Ready order included the New  
24 York Clean Transportation Program funded at 85  
25 million.

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2 And administered by NYSERDA in  
3 partnership with D.P.S., and directed the creation of  
4 three programs aimed at advancing the medium and  
5 heavy-duty vehicle industry to be implemented by the  
6 State's utilities.

7 Most recently, on April 20th of this  
8 year, the Commission expanded these efforts by  
9 issuing an order to initiate a proceeding  
10 implementing policies and developing programs related  
11 to the medium and heavy-duty electric vehicle  
12 charging infrastructure and to begin proactively  
13 planning for E.V. charging load from all vehicle  
14 classes.

15 The Department is currently  
16 undertaking a midpoint review of the E.V. Make Ready  
17 Program and recently issued a white paper with a  
18 number of recommendations, including increasing the  
19 budget up to about \$1.1 billion and to update the  
20 overall plug targets.

21 The white paper is currently out for  
22 public comment and will go to the Commission for  
23 review. The Department and Commission have also  
24 adopted beneficial rates for electric vehicle  
25 charging, both on the residential side under

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2 voluntary time of use rates and managed charging  
3 programs.

4 And on the commercial side for E.V.  
5 phase-in rates that are designed to lower the cost of  
6 utility service for charging stations in the early  
7 years of E.V. deployment when utilization is lower by  
8 phasing in the demand charge as it increases. Next  
9 slide, please.

10 Energy efficiency programs have  
11 changed substantially since the establishment of the  
12 systems benefit charge in 1996, and still further  
13 since the Commission initiated the New Efficient --  
14 the New York Energy Efficiency Portfolio Standard  
15 proceeding in 2008.

16 Programs have become more ambitious  
17 and detailed, and their scope and structure have  
18 evolved. In its September 15, 2002 order -- 2022  
19 order, the Commission initiated the required interim  
20 review of the Clean Energy Fund and New Efficiency  
21 New York portfolios, with a focus on instituting a  
22 renewed framework under which energy efficiency and  
23 building electrification programs are offered.

24 And to establish new budgets and  
25 targets for a period beyond 2025. This was the item

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2 that we -- we just heard from staff on. Following  
3 that order, staff issued a report in December 2022,  
4 to issue a comprehensive energy efficiency and  
5 building electrification report, which summarized the  
6 portfolio performance through the second quarter of  
7 2022 and solicited feedback from stakeholders.

8 That New Efficiency New York interim  
9 review and C.E.F. review process continues to be  
10 underway with the order that was just presented by  
11 staff prior to this. Next slide, please. In May of  
12 2022, the Commission directed the utilities to work  
13 with department staff to develop a proposal regarding  
14 the content of greenhouse gas annual emissions -- of  
15 a greenhouse gas annual emissions inventory report.

16 That includes an inventory of total  
17 gas system-wide emissions, including specific  
18 directives on what emissions should be included. The  
19 utilities worked with staff to develop this proposal  
20 and filed an initial proposal on December 1st of  
21 2022, and a subsequent proposal supplement on May  
22 31st, 2023.

23 That proposal is currently out for  
24 comment, and staff will soon bring a proposal to the  
25 Commission for review. Next slide, please. The

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2           C.L.C.P.A. requires both that Commission decisions do  
3           not disproportionately burden disadvantaged  
4           communities and that disadvantaged communities  
5           receive substantial benefits from programs that  
6           implement the C.L.C.P.A.'s mandates.

7                                   Specifically, the C.L.C.P.A. requires  
8           the Commission, to the extent practical --  
9           practicable, to direct available programmatic  
10          resources in a manner that disadvantaged communities  
11          receive a minimum of 35 percent, with a goal of 40  
12          percent, of the overall benefits of spending on clean  
13          energy and energy efficiency programs, projects, or  
14          investments.

15                                  It also included specific requirements  
16          for a minimum of 20 percent of investments in  
17          residential energy efficiency, including multifamily  
18          housing, are invested in a manner that will benefit  
19          disadvantaged communities, including low-to-moderate  
20          income consumers and includes reporting requirements  
21          for energy savings and clean energy market  
22          penetration in the low-to-moderate income market and  
23          in disadvantaged communities.

24                                  The Department is working with D.E.C.,  
25          NYSERDA, and other agencies to develop a consistent

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2            approach to tracking and reporting investments in,  
3            and benefits to, disadvantaged communities. And the  
4            State expects to produce its first report on these  
5            benefits pursuant to the C.L.C.P.A. in 2024.

6                    Lastly, while work is ongoing both  
7            within and beyond D.P.S. to develop guidance for  
8            implementing the C.L.C.P.A.'s requirements related to  
9            disadvantaged communities, the Commission has already  
10           acted in multiple proceedings to direct clean energy  
11           and energy efficiency investments to those  
12           communities, a subset of which are shown here. Next  
13           slide, please.

14                    To estimate the benefits for the  
15           C.L.C.P.A. annual review, staff issued information  
16           requests to NYSERDA and each utility seeking data on  
17           the annual amounts for 2022 and cumulative total  
18           amounts for the years 2020 through 2022 of reductions  
19           in energy usage and emissions associated with  
20           C.L.C.P.A. programs, including the Clean Energy  
21           Standard, Clean Energy Fund, value of distributed  
22           energy resources, electric vehicle make ready,  
23           utility energy efficiency, and beneficial  
24           electrification, including heat pumps.

25                    The slide here outlines the total

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2           energy savings, or energy generation, across these  
3           various programs that have been achieved in this time  
4           period, with both 2022 separated out and a cumulative  
5           summary of the years 2020 through 2022.

6                   For a few of these initiatives, data  
7           is not yet available as projects in these programs  
8           have not yet reached commercial operation. As a  
9           result of the clean energy investments that have been  
10          made between 2020 and 2022, more than 95.9 million  
11          megawatt hours of energy has either been saved or is  
12          now being generated by clean, renewable energy  
13          sources, not including the State's existing renewable  
14          resources.

15                   Next slide, please. The development  
16          of clean energy resources coupled with reducing the  
17          actual demand for electricity is helping to reduce  
18          greenhouse gas emissions in addition to producing  
19          energy savings.

20                   Between 2020 and 2022, overall  
21          greenhouse gas emissions were reduced by nearly 50  
22          million metric tons, with the majority of the  
23          decrease coming from changes in the electricity  
24          sector -- electricity generation sector.

25                   It should be noted that emissions



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2            reductions from electric vehicles are indirect  
3            benefits of the E.V. Make Ready Program, but are  
4            included here because the public charging stations  
5            funded through the program are helping to enable  
6            technology for the Statewide electric vehicle  
7            deployment.

8                    Next slide, please.  For the purposes  
9            of estimating the cost recoveries of the C.L.C.P.A.,  
10           the money recovered by utilities in support of these  
11           programs, relative to initiatives in 2022, staff  
12           issued information requests to each of the utilities  
13           for both gas and electric programs.

14                   The slide -- this slide shows the  
15           total cost recoveries associated with gas energy  
16           efficiency measures targeted at reducing overall  
17           fossil fuel use broken out by utility.  As you heard  
18           in the last presentation, the types of investments in  
19           energy efficiency here and for electric will change  
20           as programs continue to evolve.

21                   Next slide, please.  This slide is  
22           focused on the electric programs related to  
23           C.L.C.P.A. and shows cost recoveries that are broken  
24           out both by utility and by program.  As you can see,  
25           the majority of cost recoveries are on the elect --

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2 electric side as the C.L.C.P.A. is focused on  
3 transitioning away from the use of fossil fuel use,  
4 as well as overall energy use reduction and in  
5 developing new renewable energy generation.

6 The slide here includes detailed  
7 footnotes, which are also reflected in the report, to  
8 provide some additional information for what is  
9 behind these values. Specifically, you will see that  
10 there are no values for energy storage or  
11 transmission cost recoveries yet.

12 For energy storage, the overall value  
13 in 2022 was de minimis, but we do plan to report on  
14 dispatchable storage costs and benefits in future  
15 reports. For transmission, Phase I, Phase II, and  
16 other related transmission project efforts pursuant  
17 to the Accelerated Renewable Energy Growth and  
18 Community Benefit Act were authorized in 2022.

19 Expenditures related to transmission  
20 will be reported in subsequent annual reports as they  
21 are incurred. Next slide, please. The annual total  
22 Statewide cost billed to load serving entities, or  
23 L.S.E.s, by NYSERDA in 2022 is shown here, as well as  
24 the cumulative Statewide cost billed to those L.S.E.s  
25 by NYSERDA from 2020 through 2022.

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2 These costs are associated with the  
3 Clean Energy Standard programs and are detailed in  
4 the chart shown here. The majority of billing, as  
5 well as savings and emissions reductions shown in  
6 prior slides are assoc -- are associated with Clean  
7 Energy Standard Tier Three ZECs, or Zero Emission --  
8 Zero Emission Credits.

9 The Tier Three program, which  
10 commenced in 2016, aligns broadly with the objectives  
11 of the C.L.C.P.A. in providing zero emission  
12 electricity to the electric grid, but the Commission  
13 did not adopt that program pursuant to the C.L.C.P.A.  
14 It was in place prior to.

15 While the amount of savings and  
16 billing are much higher for these credits versus some  
17 of the other programs shown here under the Clean  
18 Energy Standard, these numbers will change over time  
19 as more renewable energy projects achieve commercial  
20 operation in support of the C.L.C.P.A. renewable  
21 energy requirements.

22 The information shown here is for --  
23 only for billing for NYSEDA's Clean Energy Standard  
24 programs for the calendar years 2020 through 2022,  
25 and does not reflect billing for these programs under

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2 the Clean Energy Standard that may have occurred  
3 prior to 2020.

4 Next slide, please. The slide here  
5 provides an overview of the information requests to  
6 each of the utilities to help estimate the bill  
7 impacts associated with the C.L.C.P.A. related cost  
8 recoveries shown in prior slides.

9 For both gas and electric, we are  
10 providing bill impacts for average size customers in  
11 the residential, small commercial, commercial, and  
12 industrial customer classes to help put these numbers  
13 into context for each of these classes.

14 It is important to note that for non-  
15 residential customers, the rate impacts can vary  
16 greatly depending on the utility and depending on the  
17 amount of electricity consumed. It also is important  
18 to note that these values are looking at the rate  
19 impacts over the prior calendar year and do not look  
20 at years prior to 2022 or years out into the future.

21 Next slide, please. For residential  
22 electric customers, the rate impacts for the gas  
23 energy efficiency investments shown in the prior  
24 slide, not accounting for overall societal benefits,  
25 range from about .02 percent to 1.36 percent

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2 depending on the utility.

3 As I noted on the prior slide, the  
4 ranges for the remaining customer classes vary  
5 greatly across utilities and across usage patterns  
6 for those customers. Next slide, please. For  
7 residential electric customers, the rate impacts for  
8 these critically important investments, not -- not  
9 accounting for overall societal benefits, range from  
10 about 3.7 percent to 9.8 percent depending on the  
11 utility.

12 Again, same note as before, those  
13 numbers and ranges vary -- vary greatly across the  
14 other customer classes and depending on the  
15 customer's use. Next slide please.

16 This annual report is a review of  
17 actual costs incurred by ratepayers to date in  
18 support of various programs and projects to implement  
19 the C.L.C.P.A. and does not fully capture potential  
20 future expenditures, including estimated costs  
21 already authorized by the Commission but not yet  
22 recovered in rates.

23 To complement the overview of cost  
24 recoveries incurred to date as shown in prior slides,  
25 we also present this table of the various programs

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2           and the total amount of estimated costs associated  
3           with each authorized program by the Commission to  
4           date.

5                   The table gives a sense of  
6           expenditures that rate payers could ultimately see  
7           recovered in rates.  These values are conservative  
8           and reflect both past and prospective estimated  
9           costs, meaning that the budget shown here could span  
10          years prior to calendar year 2020, and for years much  
11          out into the future beyond 2023.

12                   There are detailed footnotes in the  
13          report that explain the sources of these values and  
14          the time periods that they cover.  These estimated  
15          costs represent either total program budget,  
16          estimated total costs for the program over its  
17          duration, or costs incurred to date in support of the  
18          program.

19                   For example, the total future Clean  
20          Energy Standard funding is difficult to predict as we  
21          -- as we have not yet completed procurements under  
22          some of the tiers.

23                   So to develop this number, we used  
24          estimated costs for the total Tier One and offshore  
25          wind programs pursuant to a staff Clean Energy

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2           Standard white paper filed in 2020, the total budget  
3           for Tier Two authorized by the Commission, and  
4           estimated costs for the two transmission projects  
5           authorized under Tier Four.

6                   Within this program, as well as in  
7           other program areas, there is a high variation in how  
8           program budgets are set, program costs are estimated,  
9           and the overall duration of programs and project  
10          implementation schedules, which made pulling together  
11          this type of chart a very difficult effort.

12                   It is important to note that the  
13          Commission authorized some of the estimated costs in  
14          this table prior to C.L.C.P.A. enactment and that the  
15          costs associated with these programs will be  
16          recovered over several years to come, some over 20 to  
17          25 years, based on implementation schedules for these  
18          projects or programs and will mitigate the cost  
19          impacts to ratepayers year over year.

20                   Additionally, these initiatives will  
21          result in a variety of other changes that will impact  
22          how much consumers pay for energy. A number of these  
23          would put downward pressure on costs, including  
24          benefits in the form of reduced energy usage and  
25          therefore reduced energy bills to consumers.

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2 The Department has also -- also  
3 previously described market price effects that are a  
4 result of these investments. For example, when load  
5 is reduced or more low-cost generation is added, it  
6 could be anticipated that energy prices would fall  
7 because the market would rely less on higher cost  
8 generators.

9 In addition, investments in  
10 transmission infrastructure not only unbottle  
11 renewable energy, but also yield production cost  
12 savings and reliability benefits. In sum, the total  
13 estimated costs associated with these programs or  
14 projects should not be considered as entirely  
15 incremental to what rate -- ratepayers would  
16 otherwise pay.

17 Subsequent annual reports may include  
18 additional information about costs recovered relative  
19 to the funding previously authorized by the  
20 Commission in these programs, including funds already  
21 expended in support of these programs, to put these  
22 numbers into a more refined context.

23 Next slide, please. I'd like to  
24 conclude by saying that this is the first annual  
25 report to the Commission on the Department's overall



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2           compliance with the C.L.C.P.A.  It presents data from  
3           various programs that draw on distinct inputs,  
4           reports on distinct outcomes, and employs a diverse  
5           set of performance metrics.

6                   This report focuses solely on the  
7           portion of programs over which the Commission has  
8           regulatory oversight authority.  It does not include  
9           other non-ratepayer-funded programs that are being  
10          executed by other State agencies to achieve the goals  
11          of the C.L.C.P.A., nor does it include the customer-  
12          side cost of adoption of technologies.

13                   Being able to compare data across  
14          programs is an important means of assessing both  
15          relative and overall effectiveness, and is  
16          indispensable to making C.L.C.P.A. implementation  
17          transparent to -- to the public.

18                   For this reason, in addition to  
19          publishing this first annual report, D.P.S. will also  
20          continue to explore options for making the data  
21          reported in subsequent versions easier to review,  
22          easier to compare, and easier to analyze.  Thank you.

23                   That completes my presentation, and I,  
24          as well as staff, are available to answer any  
25          questions you may have.

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2 CHAIR CHRISTIAN: So I -- I don't  
3 think I could put to words just how challenging  
4 putting this report has been, so I just want to take  
5 a moment to thank you and staff for your hard work in  
6 putting this together. I know this was challenging.

7 And you know, just seeing the results  
8 in front of me, I -- I think it's important and very  
9 informative to highlight just where we're going and  
10 where we are in the process. I have a couple  
11 questions for you, not so much comments, but  
12 questions specific to some of the things you pointed  
13 out, and you know, more amplification than new  
14 information.

15 So you'd mentioned throughout just  
16 kind of the -- the broader transition and the focus  
17 particularly on funding towards electric efficiency  
18 and electricity efforts rather than gas-sided  
19 efforts. And as you were speaking, I'm reminded of  
20 past statements by previous chairs regarding the  
21 general overall efficiency of the path that we're  
22 moving along.

23 So rather than doing a business-as-  
24 usual approach and continuing business-as-usual  
25 investments in electricity and the gas system, a more

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2 concerted focus on making a more robust electric  
3 system could actually lead to significant savings.  
4 Is that something you could speak to a bit and expand  
5 upon?

6 MS. WALDORF: Sure. I think it's very  
7 difficult to come up with, for example, the exact  
8 number of what the difference in cost would be  
9 between business-as-usual and specific efforts to  
10 implement the C.L.C.P.A.

11 What is clear is that the transition  
12 that we're in the midst of to a clean energy economy  
13 represents an overall shift in investments. Instead  
14 of building out the natural gas system or expanding  
15 the use of fossil fuels, for example, we're now  
16 targeting and supporting electrification of those  
17 same homes and energy efficiency measures to reduce  
18 overall demand. We're taking what is status quo  
19 plans for investment and shifting them more to clean  
20 energy and to the electric grid for investment.

21 It's a commitment to invest in  
22 necessary infrastructure that will help the State  
23 avoid significant costs that we can incur due to the  
24 rising cost of climate change, including severe  
25 storms, but also provide a lot of benefits to

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2 consumers in the form of energy savings as well as  
3 air quality improvements and other benefits that come  
4 with the change that we're in the midst of.

5 CHAIR CHRISTIAN: Thank you. And  
6 thank you for that. And -- and just digging a little  
7 bit deeper, I'm -- I'm looking over some of the  
8 slides and I'm -- I'm noting in particular slide  
9 fifteen, the -- the summary of cost recoveries.

10 And just -- just for information  
11 purposes, are all the numbers on this slide being  
12 allocated through load ratio share approach? If --  
13 if I'm remembering correctly, that -- is that the  
14 case?

15 MS. WALDORF: So the way that we  
16 recover costs varies across the various programs. So  
17 for many of the programs under the Clean Energy  
18 Standard, for example, we look at those programs as  
19 providing a Statewide benefit and thus we allocate  
20 costs on a load ratio share basis.

21 Across other programs, for example,  
22 the Clean Energy Fund or some of the more energy  
23 efficiency focused programs, those costs are  
24 recovered, you know, in varying ways volumetrically  
25 through delivery or supply charges. So it really

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2 varies.

3 CHAIR CHRISTIAN: Got it.

4 MS. WALDORF: It could be utility  
5 specific or it could be allocated Statewide.

6 CHAIR CHRISTIAN: Got it. Okay.

7 Yeah, I think that's one thing we may want to put a  
8 laser focus on going forward in future reports. Just  
9 thinking of my recent assembly hearing, I know that  
10 came up and I know that's of interest.

11 So I -- I want to take us back a bit  
12 and just think about this from a broader perspective.  
13 So you know, our focus here is largely on the  
14 electric and natural gas side. But throughout the  
15 State, we use far more energy outside those sectors,  
16 kerosene, oil, gasoline, et cetera.

17 Can -- can you talk to the scale of  
18 investments here with respect to expenditures  
19 Statewide for all of our energy use, just to kind get  
20 an understanding of the scope and scale of this work?

21 MS. WALDORF: Sure. We actually do  
22 have some estimates that come from a couple of  
23 different sources, including NYSERDA's Patterns and  
24 Trends Report, as well as some economic forecasting  
25 that was done as part of the integration analysis

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2 behind the Climate Action Council Scoping Plan.

3 Those different studies show that New  
4 York spends just under about a \$140 billion annually  
5 on energy. From 2021 through 2030, the time period  
6 which those studies cover, we anticipate that New  
7 York's gross undiscounted spending on energy will be  
8 about \$1.47 trillion.

9 So over ten years, that's a bit more  
10 than the annual number times 10. Of the 140 billion  
11 that's spent Statewide on energy, about 26 billion  
12 goes to fuels, so gasoline, diesel, and natural gas.  
13 21 billion goes to electricity. And another 27  
14 billion goes to energy-related investments in  
15 buildings.

16 So that's both capital and  
17 operational spending. And we've also spent about \$63  
18 billion on capital projects and on the operation of  
19 the transportation sector. The values that I  
20 referenced are in 2020 dollars, but it also helps to  
21 put the \$44 billion on previously authorized programs  
22 into some context.

23 CHAIR CHRISTIAN: Got it. Got it.

24 And I just want to close with one last question. So  
25 -- so thinking through the various efforts, you know,

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2 we talked about the -- the rate impact for electric  
3 customers and natural gas customers.

4 But -- but in most cases, it's fair to  
5 say that the individual customers who have taken  
6 advantage of these programs have reduced their costs  
7 well in excess of any additional premiums that have  
8 resulted from the cost of paying for the program  
9 themselves. Is that a fair assessment to make?

10 MS. WALDORF: I think that's fair. I  
11 think to hone on a very specific number would be  
12 difficult, but I, you know, that's part and parcel  
13 why the Commission for years has invested so heavily  
14 in energy efficiency programs, the item that was just  
15 presented to the Commission.

16 And really, those programs provide  
17 benefits beyond just reducing bills to consumers, but  
18 they also help to reduce the overall demand for  
19 what's going to be required for the energy systems  
20 that serve them.

21 And as we lower demand or increase  
22 efforts on demand response, we also could see  
23 benefits in the amount of new generation or new  
24 resources that have to be built to support the  
25 various sectors across the State.

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2 CHAIR CHRISTIAN: Got you. All right,  
3 thank you very much. We'll now move to Commissioner  
4 Burman.

5 COMMISSIONER BURMAN: Thank you. I'm  
6 struggling with where to give constructive criticism  
7 and where to give positive reinforcement. So I think  
8 I will say I recognize the enormous amount of work  
9 that went into this.

10 I recognize the enormous amount of  
11 work that continues to go into all of the different  
12 things that we do at the Commission. And you know,  
13 that's kind of the nature of the job. It's hard.  
14 It's hard when we have to really do core economic  
15 regulatory analysis, where we have to look at system  
16 planning, where we have to look at are we moving  
17 forward in a way that is helpful.

18 Yes, we've invested a lot over the  
19 years in energy efficiency. We just dealt with that  
20 right before this. We didn't always do it well. In  
21 fact, we've spent a lot of dollars that were not  
22 helpful. That's why we've had so many different  
23 refinements.

24 And that's why also it's important for  
25 us to shake off the desire to continue to pat



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2           ourselves on the back. I get it. We're doing great  
3           work. But we've got to also address the challenges.  
4           There's no slide that says challenges ahead. There's  
5           no slide that says reliability issues ahead.

6                   There is no slide that says upward  
7           pressure on rates, energy, prices, costs outside of  
8           that, major red flags. We talked in the first order  
9           about the fact that ratepayers can no longer bear the  
10          brunt of this.

11                   Okay, this is supposed to be about us  
12          getting a handle on that. Now, I recognize it is the  
13          first annual report. I appreciate all the hard work.  
14          But I don't want to be waving, you know, and -- and  
15          saying, great job. When I think that what we need to  
16          do is say, all right, what are we missing?

17                   It does not bode well for us as we  
18          move forward if we are saying we can't identify  
19          business as usual costs with C.L.C.P.A. and other  
20          costs. It does not bode well when we started a  
21          proceeding that's supposed to identify.

22                   Now, we've had actual T&D investments  
23          needed to accommodate renewables. It does not bode  
24          well when we know that there are ways to do it,  
25          discreet amount for E.V. charging. There are known

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2           subsidies for E.V. rates, New York Sun, the list goes  
3           on.

4                   We can go back and rely on utility  
5           planning documents. We should. We're asking the  
6           utilities to do that. We should be delving into  
7           more, asking other State agencies who have costs that  
8           are impacting over here that we need to then do to  
9           delve into theirs.

10                   Give it to us. We need to be looking  
11           at all of this in a way that doesn't try to sugarcoat  
12           it and put it up nicely in a fashion for that I see  
13           is that, well, this is C.L.C.P.A. costs, yes. When  
14           people talk C.L.C.P.A., you can look at it in this  
15           isolation.

16                   It's larger than that. We can  
17           evaluate past REV costs, some of the legacy issues  
18           that's still there that, frankly, might need to be  
19           revised. We're picking a snapshot, 2022 primarily.  
20           Okay, makes sense, right? Because this is that.

21                   That was COVID. It's a lot of that.  
22           We can't necessarily -- we have a snapshot, but it's  
23           a snapshot that doesn't give us now, well, what does  
24           it mean? Yes, we may not know exactly what the  
25           forward-looking costs are, but we have an idea,

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2 billions upon billions of dollars.

3 What does that look like? Right? I -  
4 - I don't know. Costs to achieve the C.P.L. plus  
5 mandates are still largely unknown. However, there's  
6 an ability for us to start figuring out how to delve  
7 deeper and do that.

8 There are consultants that are being  
9 hired to do some of this that perhaps have  
10 information that could be helpful, perhaps have  
11 shaping plans. Would we accept that from the  
12 utilities? That it's hard? That we don't know that  
13 it's hard?

14 I -- I don't think we are accepting  
15 that. I think that we need to be laser focused on  
16 what I see is important to look at it from the  
17 perspective of, we have to make sure that we are  
18 doing the true analysis of the total costs of the  
19 total positive and negative things that can happen as  
20 we move forward.

21 We're not talking about power trends,  
22 the STAR Report. Just yesterday, Reliability Council  
23 put in offshore wind data that I think is helpful in  
24 the long-term gas planning. P.A. Consulting just put  
25 it in an initial report looking at some of the

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2 challenges with reliability, some of the challenges  
3 with -- with that.

4 Now, all of these things have to  
5 somehow gel together. We cannot continue to be  
6 siloed. The costs impact are going to grow rapidly,  
7 rapidly in the coming years. The majority of our  
8 fiscal obligations that are being mandated have yet  
9 to occur.

10 So it's easy to point backwards.  
11 Folks need to understand what it means and the  
12 challenges going forward. We have an obligation to  
13 look at the total, not just in isolation of what we -  
14 - is under our jurisdiction because it dramatically  
15 impacts.

16 So we also need to recognize that it  
17 is not a static situation. Legislation may get  
18 signed by the governor that will actually increase  
19 costs, increase challenges with reliability.  
20 Legislation may get proposed.

21 We have an obligation to step up and  
22 say, No Mas. We have issues. We need to figure it  
23 out. We need not to have prescriptive legislation  
24 that is actually, while well-intentioned, is taking  
25 us backwards and causing us to have a problem.

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2 Last week, it was the 46th anniversary  
3 of the blackout of 1977. We're approaching the 20  
4 year anniversary of the August of 2003. Rolling  
5 blackouts should not be seen as a viable option. We  
6 have an obligation to look forward in what we see as  
7 the potential problems.

8 We could talk about things we're doing  
9 to have downward pressure on costs, but the reality  
10 is we're going to see upward pressure even if we try  
11 to minimize it. We're focused on the fact that we  
12 have to do this in the timeframe that has been set up  
13 under the legislation. I recognize that.

14 But what is not lost to me is that  
15 we're not focused on the fact that under legislation,  
16 we are way behind in our State energy plan. Under  
17 the very legislation that we say we need to do  
18 because of the timeline, the scoping plan is not a  
19 final document, nor has legal weight until it goes  
20 over to the State energy plan, goes through the  
21 process there, the State Energy Planning Board.

22 And we come and have more  
23 understanding on what our actual State energy plan  
24 forward looking is. That State energy planning  
25 legislation actually has a lot of detailed things

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2 that need to be done, not just in the scoping plan,  
3 not just adopting the scoping plan as is.

4 Detailed, critical analysis that  
5 requires expertise and requires a lot of work before  
6 we even get to it getting adopted and getting  
7 implemented. My challenge is that I don't know how  
8 to be helpful in raising concerns that actually get  
9 heard to help us and help the State and help other  
10 stakeholders take it seriously.

11 I don't want to be in the position of  
12 saying, told you so, told you so. That's not helpful  
13 to anybody. So great effort, great work. It is not  
14 a criticism of staff. In fact, you need more help  
15 and resources because you get it.

16 You understand, but the constraint  
17 in having to be diplomatic and only looking at it in  
18 this box doesn't allow true talking about the  
19 elephants in the room. The Commission, like staff,  
20 takes seriously that we have to implement the laws  
21 and the regulations and do so prudently and  
22 responsibly.

23 We recognize that a lot of these  
24 actions are going to cost a lot. But I don't think  
25 that we are as open as we can be on just what that

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2 looks like. I don't think that is as open as -- as  
3 we can be in embracing looking at the reliability  
4 challenges, in embracing talking about it in a way  
5 that ties it together.

6 Lip service saying we care about  
7 reliability does no one any good. We will continue  
8 to weigh all of these things through the lens of  
9 maintaining safety and reliability of the energy  
10 systems and balancing cost impacts to address energy  
11 affordability.

12 But make no mistake. We're not right  
13 now truly sharing and truly looking at how to plan  
14 for the challenges ahead. We should be talking about  
15 power trends. We should be talking about the STAR  
16 report.

17 We should be talking about all the  
18 different planning reports out there, whether they're  
19 in their initial stage or not. We should be talking  
20 about the offshore wind data that just got put in by  
21 the reliability council.

22 We should be talking about the cap and  
23 invest is going to directly impact customers. We  
24 should be talking about it C.L.C.P.A. plus, plus pre-  
25 C.L.C.P.A. under REV, C.E.S., C.E.F., S.B.C.,

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2           whatever we want to add, plus C.L.C.P.A. and other  
3           legislation, plus things that come as executive  
4           orders for targets and other things.

5                   All of these things matter. And --  
6           and it matters because it helps give us the  
7           information to then understand where we can make a  
8           difference so that we are not doing like we did on  
9           E.E.P.S. and E-TIPS, spinning our wheels.

10                   We must be clear about that. The cost  
11           to achieve the clean energy mandates are being  
12           recovered disproportionately through energy rates and  
13           prices. That's why we're saying in the energy  
14           efficiency order, No Mas, we got to figure it out.

15                   That's why we're looking for other  
16           opportunities. However, a lot of what we are doing  
17           is going to drive away competitive markets. It's  
18           going to drive away people from having comfort that  
19           we got it, because we are not being open with them.

20                   This report should be SAPA'd and put  
21           out for comments. Why? I want to know what people  
22           think. I want to know what they think that we are  
23           missing. Let's not be afraid to have people weigh  
24           in. And if we don't SAPA it, there's a docket that  
25           people can put their comments in and share their



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2 best.

3 People are already putting it in. We  
4 have other things that are in there that we've put  
5 out for comments. No harm, no foul putting it out  
6 for comments. Every single person has an -- who is  
7 involved in energy issues in New York has an  
8 obligation to step up and share your best thinking  
9 and help us in this overall issue.

10 This was an information only item.  
11 However, technically, the order directed staff to do  
12 this annually. If there was an order that directed  
13 utilities to do something, there would be a decision  
14 on whether or not it meets the compliance.

15 I look at this as it's our obligation  
16 of the Commission as a body to determine if this is  
17 in compliance with the order. Similar to when  
18 utilities submit something to us, we offer them  
19 critique and an opportunity to submit a revised  
20 document, like an emergency response plans.

21 I think this is really good as a first  
22 start. But I think now we need to shape this  
23 utilizing other things that we're doing, the gas  
24 planning, T and D investment issues, all the other  
25 things that we're doing, and use this as something

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2 that can be modified and improved upon.

3 I think the support that you need is  
4 significant. I trust that you and staff truly get it  
5 and understand. Reliability is paramount. We should  
6 be leading as an agency and as a Commission. And I  
7 think that it should be made clear.

8 We have many different dockets. We've  
9 done a good job, especially in -- in the appendix  
10 that people haven't seen, kind of listing out those.  
11 We need to make sure that they're all moving in the  
12 same direction, where there's misalignment, where  
13 there's alignment, what do we need to do.

14 The defer item is a significant one,  
15 not only in terms of looking at new technologies and  
16 defining some of that, but also in how does this  
17 relate to the Reliability Council's work, the  
18 I.S.O.'s work, our own work in system reliability,  
19 utilities' work in trying to be responsive to  
20 policies.

21 And ultimately, making sure that what  
22 we say we care about, maintaining safety and  
23 reliability of the energy system and balancing costs,  
24 impacts to address energy affordability, actually has  
25 real meaning and is not just lip service.

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2 So to the extent that I'm frustrated,  
3 I'm frustrated that I am worried that we are seeing  
4 unprecedented amount of concern as we move forward in  
5 maintaining reliability and what that looks like.  
6 I've been on the Commission 10 years.

7 I think I'm more nervous now than I  
8 was before, and that concerns me because I want us to  
9 start working together for solutions that will  
10 actually help. We need to get over our reluctance to  
11 truly examine our issues and challenges, and I look  
12 forward to doing that with all of you. Thank you.

13 MS. WALDORF: Thank you for your  
14 comments, Commissioner Burman. Much appreciated. I  
15 wanted to just hit a few points in response to some  
16 of the comments that you made.

17 On the very last slide of the  
18 presentation, we hit on some of the issues in terms  
19 of challenges. However, we also added --.

20 COMMISSIONER BURMAN: I'm going to  
21 pull up the slide.

22 MS. WALDORF: Sure, so it's the second  
23 to last bullet that we, you know, identify that.  
24 Could we have broken it out into a separate slide?  
25 Absolutely, and that's something we can consider in

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2 future reports.

3 COMMISSIONER BURMAN: It's slide 20.

4 MS. WALDORF: Yeah, slide 20.

5 COMMISSIONER BURMAN: Now, we're on 19  
6 right now.

7 MS. WALDORF: Yeah. So we do expand  
8 some context in the actual report itself, again,  
9 which will be posted in the docket. But you know,  
10 certainly staff is very concerned and you know,  
11 prioritizing issues around maintaining the safety and  
12 reliability of the systems.

13 It's why we have other annual  
14 informational reports on those topics as well. And  
15 it's definitely something that will remain a priority  
16 both for the department and the Commission as we  
17 continue to implement these various programs, and so  
18 I just wanted to make that comment.

19 The other one, you know, that you hit  
20 on was some of the programs of the past and  
21 challenges that we may have found in those programs.  
22 I think, you know, certainly the item before  
23 addresses that and makes tweaks to how we could  
24 implement them in the future.

25 But I think it's important to note

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2 that every program that we implement, we're going to  
3 learn new things. Maybe we think an idea is a really  
4 good idea from the outset, but once we're out in the  
5 field and implementing it, we may find challenges or  
6 a need to course correct.

7 And I think that's part of what this  
8 department for years in implementing various programs  
9 has done very well, is continue to review and refine,  
10 and so I imagine that will continue to be part of our  
11 efforts moving forward.

12 We could have spent -- we could have  
13 talked about a lot of things in this report. We  
14 could have made it hundreds of pages long, and -- and  
15 that's because the C.L.C.P.A. really does kind of  
16 touch everything that we do.

17 You mentioned the very recent report  
18 that was released by the New York I.S.O. deter -- def  
19 -- showing a reliability need. That is certainly  
20 something that department staff across the board  
21 remain, you know, aware of, concerned about, and  
22 continue to prioritize on a daily basis.

23 So I want to make sure that just  
24 because we didn't emphasize that specific thing in  
25 this report as it's focused on the various programs

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2           that we're implementing and you know, what the  
3           impacts of those programs have been, we can certainly  
4           think about in future reports how we might, you know,  
5           more proactively address some of those issues.

6                   And then in terms of, you know, the  
7           appendix, so we've never really rolled up everything  
8           that we do into one place, and as you mentioned in  
9           the beginning of your comments, this was a very  
10          significant effort.

11                   I think, you know, we've learned a lot  
12          for future reports. That appendix is an effort to  
13          try to simplify for the public all of the different  
14          things that relate to C.L.C.P.A. or quote, unquote  
15          Climate Act implementation, it's not exhaustive.

16                   So we can consider, you know, maybe  
17          adding additional things into the appendix in future  
18          reports. There might be other things that we maybe  
19          didn't pull out that we could, and so we definitely  
20          welcome feedback on that.

21                   And I think, you know, certainly the  
22          comments at today's session will continue to  
23          prioritize for future reports. The last point I  
24          wanted to make is, you know, the Commission order was  
25          very specific in the directives it gave us to do this

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2 report.

3 In terms of cost recoveries, it was  
4 forward -- it was backward-looking for a reason. It  
5 shows to the public exactly what the impact was on a  
6 utility bill. Looking out into the future is very  
7 difficult. There are ways to forecast it, but there  
8 would be a lot of assumptions and a lot of ranges  
9 that we would have to give that could be confusing.

10 I think our attempt at the report at  
11 the very end, which was on Slide 19, to show the  
12 total amount of funding authorized to date is to give  
13 a sense to the public on what, you know, monies are  
14 out there that have been authorized that will be --  
15 that could eventually be recovered.

16 But that's all based on the actual  
17 implementation of those programs and what projects or  
18 programs actually get implemented. So I think, you  
19 know, looking out into the future, we'd have to look  
20 at a variety of different scenarios across those  
21 programs, which could be very difficult to execute.

22 And so again, something we could  
23 consider for the future, but wanted to provide some  
24 context as to why -- why we did what we did in this  
25 report and you know, how it's presented today.

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2 COMMISSIONER BURMAN: I think that's  
3 helpful. I appreciate your willingness to discuss  
4 this. The challenge here is that, yes, the  
5 Commission as a majority approved a very specific  
6 directive on what the annual report should look like  
7 as a minimum.

8 There were comments at the session  
9 when it was approved. I abstain from voting because  
10 I felt that we didn't have enough information and  
11 wanted more. There were comments back and forth from  
12 Commissioners and staff saying, we take your comments  
13 into what you'd like to see into account, we'll move  
14 forward.

15 There was no sort of follow-up in  
16 terms of, you know, what else could be here, right?  
17 Engagement. However, across the board, all this is  
18 about system planning. This is a core bread and  
19 butter of what we're supposed to do.

20 We're asking for -- we have a number  
21 of proceedings that are looking at that. We just  
22 asked for the utilities and NYSERDA to put forward  
23 their proposals on post-2025. So it may be hard, but  
24 we've got to start doing that.

25 And so the last slide, yes, it's like



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2 -- to me, that slide is like saying reliability is  
3 paramount, right? What does that mean? For every  
4 one of them, what is it that we're actually doing and  
5 articulating?

6 And we do not have to wait another  
7 year for the annual report to then start shaping  
8 that. It's like when we do, we do information only  
9 items on a number of different things, electric  
10 reliability, winter planning, summer planning, et  
11 cetera.

12 We start -- staff starts looking at  
13 that as soon as that, it's an ongoing process. And  
14 along the years, it's been refined to be much more  
15 forward looking and forward planning. We don't have  
16 the luxury of waiting another year and putting all  
17 our focus on, how to make a report more responsive  
18 and saying, well, we don't have to because it just  
19 says just do C.L.C.P.A. in this little thing.

20 We have an obligation to start  
21 broader, making it all clear how these things are  
22 being aligned and what it means. And to talk about  
23 the challenges. You get that. I know you do.  
24 That's why I say SAPA the comment -- SAPA the report.

25 MR. ROSENTHAL: So just -- just for

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2           your information, there is, you know, Section 66P  
3           subdivision 3 that was added by the C.L.C.P.A. in the  
4           future. All -- all the reports are going to have to  
5           be filed for public comment. We will file them for  
6           public comment prior to being provided to the  
7           Commission.

8                                 COMMISSIONER BURMAN: And so what does  
9           that mean? By saying that to me, what are you trying  
10          to say to me? That okay, what your -- my comment on  
11          SAPAing it, so it's going to be SAPA'd what,  
12          tomorrow, put out for comments and come back?

13                                MR. ROSENTHAL: It's a biennial  
14          process that starts next year.

15                                COMMISSIONER BURMAN: Hey!

16                                MR. ROSENTHAL: We preceded it by a  
17          year.

18                                COMMISSIONER BURMAN: I understand  
19          that. I'm not asking for that. I get that. I want  
20          much more granular, time-sensitive information,  
21          sharing it with us and publicly in a way that helps.  
22          Looking at how all of the different State agencies,  
23          authorities, Reliability Council, I.S.O., all the  
24          different issues that are impacting us.

25                                Anyway, I -- I don't -- I don't want

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2 to be -- I don't want to be anything other than  
3 focused on helpful path forward. And I think that  
4 one of the things that is important to me is that, I  
5 not just be a cheerleader on all the good without  
6 recognizing the challenges that we need to address.

7 And I don't think that I would do my  
8 job effectively if I didn't share what some of my  
9 concerns are in -- not just internally, but publicly  
10 because we need to start looking at that. And -- and  
11 frankly, it's hard when you raise these issues  
12 internally and you don't get those things, you know,  
13 except for, well, this is the way it is.

14 We don't have to do it that way. And  
15 so for me, I -- I share. So I guess thank you to Bob  
16 for, you know, your input there. And thank you very  
17 much to Jessica and your team that's been working  
18 very hard. I recognize that. Thank you.

19 CHAIR CHRISTIAN: Thank you. And I'd  
20 just like to add, you know, the -- the feedback here  
21 today is, in my view, part of the process that we  
22 have. And we are going to take this feedback up into  
23 making this report more refined, clearer to  
24 understand, and more accessible going forward.

25 So thank you for that feedback,

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2 Commissioner Burman. Commissioner Alesi?

3 COMMISSIONER ALESI: Well, I think  
4 it's an excellent report, very good report. And of  
5 course, there are questions when you have a good  
6 report because it makes you think. And so as we  
7 think, those questions arise.

8 And I can't wait until we have another  
9 session when we can ask those questions and have some  
10 answers for them, not today. Thank you. I know a  
11 lot of hard work goes into this. I appreciate it.

12 CHAIR CHRISTIAN: All right. Thank  
13 you, Commissioner. Commissioner Edwards?

14 COMMISSIONER EDWARDS: Yes, thank you  
15 very much. Jessica, I just have one question, and it  
16 might be unfair. And it also could be --

17 CHAIR CHRISTIAN: Sorry, Commissioner  
18 Edwards.

19 COMMISSIONER EDWARDS: -- more  
20 appropriate.

21 CHAIR CHRISTIAN: I'm going to have to  
22 cut you off. Would you mind moving the mic a little  
23 closer, please? We're having a hard time here.

24 COMMISSIONER EDWARDS: Okay, can -- is  
25 that better?

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2 CHAIR CHRISTIAN: Much better, thank  
3 you.

4 COMMISSIONER EDWARDS: Is that better?

5 CHAIR CHRISTIAN: Yes.

6 COMMISSIONER EDWARDS: Okay. All  
7 right. So Jessica, I do have a question. It could  
8 be unfair, and it also could be more appropriate for  
9 the next item. But I'm going to ask it anyway. If  
10 you could turn to page 14.

11 MS. WALDORF: Yeah.

12 COMMISSIONER EDWARDS: Okay. So the  
13 Con Ed. cost recovery, is that reflected at all in  
14 the rate case that is before us in the next item?

15 MS. WALDORF: So I will start, and  
16 then I'll let staff jump in if I'm getting it wrong.

17 COMMISSIONER EDWARDS: Okay.

18 MS. WALDORF: But the cost recoveries  
19 that we show here are backward looking. So it  
20 doesn't include what the cost recoveries could be in  
21 the rate case, you know, 2023 and beyond. But --.

22 COMMISSIONER EDWARDS: Okay. Say that  
23 one more time.

24 MS. WALDORF: So we're looking --

25 COMMISSIONER EDWARDS: Okay.

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2 MS. WALDORF: -- at the cost  
3 recoveries that have been incurred by customers in  
4 the calendar year 2022. Now --

5 COMMISSIONER EDWARDS: Correct.

6 MS. WALDORF: -- it doesn't -- it's  
7 not to say that this will be exactly the same in all  
8 future years, right, because programs will change,  
9 project implementation schedules will change, and so  
10 the amount of money that's recovered pursuant to the  
11 C.L.C.P.A. programs in calendar years 2023 and beyond  
12 will change based on the schedule of, you know, when  
13 projects or measures are installed by customers and  
14 when those costs are incurred by the utility.

15 COMMISSIONER EDWARDS: Okay. All  
16 right. Thank you. So I guess my question is going  
17 to be --

18 MS. WALDORF: Yeah?

19 COMMISSIONER EDWARDS: -- for the next  
20 item, so just as a heads up, I'm going to ask the  
21 A.L.J.s to just talk me through how this is, in fact,  
22 reflected in the Con Ed. joint proposal if it is. So  
23 that's not for you.

24 MR. ROSENTHAL: Let me -- let me make  
25 --

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2 COMMISSIONER EDWARDS: Okay?

3 MR. ROSENTHAL: -- one further

4 clarification, which is that some of the costs --

5 COMMISSIONER EDWARDS: Okay.

6 MR. ROSENTHAL: -- are going to be

7 reflected in the delivery rates, which are going to -

8 - which is what you're going to be voting on in the

9 Con Ed. rate case and in every rate case. All of the

10 C.E.S. RECs programs are not borne out in the

11 delivery rates.

12 They're borne out in the commodity

13 side of the bill, not in the delivery rates.

14 COMMISSIONER EDWARDS: Okay. Okay,

15 thank you, Bob. My other comment was really more

16 just to think about for the next time. I think that

17 this is really good. I want to see how we can, for

18 the next annual report, do a little bit more of a

19 deep dive on what you expect to happen on a going

20 forward basis.

21 So we have all of the, this is what

22 happened, and then it would be great if you were able

23 to say this is what I think is going to happen

24 between now and the next year, so that we can then do

25 a check based on what you believe is expected to

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2 happen.

3 Did it happen or did it not?

4 MS. WALDORF: Yeah, thank you. You  
5 know, I definitely think that's something we could  
6 incorporate, and to your point, we could also hit on  
7 some of the changes that we might see from a policy  
8 perspective related to the C.L.C.P.A. --

9 COMMISSIONER EDWARDS: Right.

10 MS. WALDORF: -- as well as, you know,  
11 the impact of, you know, for example, any legislation  
12 that's passed in the calendar year, we're doing the  
13 report and how that could impact the structure of  
14 programs and cost in the future. So we'll -- we'll  
15 definitely give some thought to that.

16 COMMISSIONER EDWARDS: Okay. That'd  
17 be great because you and the team are the experts in  
18 this, right? So as you're putting together, you  
19 know, here's what happened, it would be great for us  
20 to learn more from all of you on, okay, so now going  
21 forward, we want to -- we think that this is going to  
22 happen in the next calendar year, and then it'll give  
23 us a little bit of a guide to say, are we on track?  
24 Are we not on track? And what are the gaps and what  
25 are the things that we need to do in order to course



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2 correct.

3 So that would be helpful for me.

4 MS. WALDORF: Great. Thank you.

5 COMMISSIONER EDWARDS: Okay, thank  
6 you.

7 CHAIR CHRISTIAN: Thank you.

8 Commissioner Howard?

9 COMMISSIONER HOWARD: Thank you, Jess.  
10 You -- our order gave you, maybe, the least enviable  
11 job in the C.L.C.B -- C.L.C.P.A. debate of -- of any  
12 entity. Because we asked how much stuff costs, and  
13 it's very clear, certainly over the last 12, 18  
14 months, that New Yorkers are desperate to know what  
15 this is going to cost.

16 The rhetoric surrounding the C.L.P.A.-  
17 - C -- C.L.C.P.A. writ large is, don't worry, it pays  
18 for itself. Well, I think we just see from our brief  
19 snapshot in 2022. Well, okay. No, it doesn't pay  
20 for itself. It takes real dollars to build  
21 transmission. It takes real dollars to build  
22 renewable resources.

23 It takes real dollars to insulate and  
24 weatherproof homes. And that's real dollars. We can  
25 debate how -- whether those dollars are offset by

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2           societal benefits, but there are dollars and this  
3           Commission has authorized us to put hands in  
4           ratepayers' pockets to get those dollars to pay for  
5           this.

6                                 And again, I get this is looking back.  
7           And I -- I think everyone, and include -- you know,  
8           to Commissioner Edwards' point, there's got to be  
9           next time -- some looking forward. Because we all  
10          know, but it's sort of, I said this to you before.  
11          This is sort of like we're going across the Great  
12          Plains.

13                                 Boy, this is a great trip to  
14          California. No problem, flat, easy going. Holy  
15          Lord, those are giant mountains we got to cross. We  
16          are at the foothills now. And I think we need to un  
17          -- understand that the biggest challenges are all in  
18          the future.

19                                 However, there are some cautionary  
20          tales in your report. And the cautionary tales, I  
21          think -- and I think I've mentioned this multiple  
22          times about our broader economic competitiveness in  
23          our job creating aspect of our economy.

24                                 You know, we already have large  
25          industrial employers paying in excess of 10 percent

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2           of their bill to support C.L.C.P.A. goals today.  
3           That's before Tier Four.   That's before any real OREC  
4           costs hit.   Certainly, before any large transmission  
5           costs hit the grid.

6                   So again, if today a large industrial  
7           or a site selection expert says, well, shoot, it's 10  
8           percent now.   What's it going to be going in the  
9           future?   Because I think as much as residential  
10          customers are desperate to know, it is vital that  
11          industrial customers know what these projected costs  
12          are, because they will make decisions that take many  
13          years to implement today about what that will be and  
14          what particular aspects of economic activity those  
15          particularly multinational corporations will do in  
16          New York, or they will do it somewhere else.

17                   And what things they might be doing in  
18          New York today that looking forward they won't be  
19          able to do in New York.   So I think that is a -- a  
20          really -- to me, one of the biggest news that comes  
21          out of this.   Not news, it's just reiterating on one  
22          piece of paper that -- what those costs are.

23                   But again, yeah, I do appreciate this.  
24          But this is not going to be -- and -- but -- and to  
25          get to this, if not the Department of Public Service,

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2 who else? Because nobody else is seriously in  
3 government taking, you know, being transparent.

4 And I do appreciate our efforts at our  
5 direction to breathe -- to breathe transparency into  
6 this process. And as difficult and -- as this  
7 process was this year, this is nothing. And I really  
8 do appreciate what is expected of you guys going  
9 forward.

10 And yes, more resource clearly would  
11 make it easier. But it won't make the message any  
12 less painful. So again, thank you -- again, I think  
13 we can glean a lot from this. But again, yeah, the  
14 hard work lies ahead of us.

15 And we -- and this does, at least I  
16 think, minus social benefits and carbon reduction,  
17 actually starts telling us how much New Yorkers are  
18 going to need to pay to get this done. And I think  
19 just like our first item today, it is very clear that  
20 if all of these costs going forward are the vast,  
21 vast majority of, federal money notwithstanding, is  
22 just on ratepayers, it -- it clearly won't be  
23 sustainable.

24 If it's not sustainable for a billion  
25 dollar program, it's certainly not sustainable for a

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2           200 billion dollar program.  So again, thank you.  
3           And well, sympathies and congratulations at the same  
4           time.

5                               CHAIR CHRISTIAN:  Thank you.  And  
6           Commissioner Valesky?

7                               COMMISSIONER VALESKY:  Thank you, Mr.  
8           Chair.  I'll pick up on Commissioner Howard's  
9           transparency thoughts in a minute.  But Jessica, I  
10          just want to really thank you and the entire team.  I  
11          know there's a lot of folks here who have done an  
12          awful lot of work, including one gentleman on staff  
13          who hopefully is work -- watching from home as he  
14          cares for his newborn.

15                              I know I'm sure he had a lot -- a lot  
16          to do with this as well.  Can -- can I just go back  
17          to the slide show for a minute, whoever's in charge  
18          of the slides?  I just wanted to bring up two slides.  
19          If we could go to slide 9 first, please.

20                              And so Jessica, this is a question.  
21          I'll base it off of slide 9, but and -- and then a  
22          comment on slide 8.  But the annual emissions  
23          inventory that we are doing that's summarized in this  
24          slide, those Commissioners who have spoken before me  
25          and -- and talking about what other agencies are

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2 doing.

3 And perhaps how much more other  
4 agencies should be telegraphing what they are doing.  
5 If I could just ask a specific question on this and  
6 refresh my memory. So I know we are either in the  
7 year by which at the end of it, D.E.C. is required to  
8 do their own greenhouse gas emissions inventory. I  
9 think I'm correct.

10 How -- how does what they are doing  
11 dovetail with what we are doing, or maybe it doesn't,  
12 that you've summarized here on -- on this slide?

13 MS. WALDORF: Yeah. So a couple  
14 things, D.E.C. has already promulgated an annual  
15 emissions report inventory that we cited in a prior  
16 slide. So they had a statutory requirement to do  
17 that already, and they've fulfilled that to date.

18 So that Statewide inventory looks at  
19 the total emissions across a variety of sectors. So  
20 it's looking at different sectors. One example would  
21 be the electric sector, which we pulled a -- a table  
22 out of that report and showed it visually here to  
23 show the way that that has evolved over time.

24 There are other tables in the report  
25 that are very similar. What we saw the value in from

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2           the utility perspective is, in that report, it's  
3           looking at everything very high level.  But when  
4           we're looking at individual decisions, for example,  
5           in the context of a rate case or a project that a  
6           utility wants to do, it would be really good for us  
7           to have the information on what exactly are -- what  
8           is the status of emissions with that particular  
9           utility?

10                   What is -- what are we reducing from  
11           that utility service territory, and how does the  
12           infrastructure that they manage and operate -- what  
13           does that mean in terms of emissions?  We don't  
14           really get that now.

15                   And what we do -- the utility -- many  
16           of the utilities do report emissions to federal  
17           entities on an annual basis or, you know, whatever  
18           frequency.  So we could use that, but it's not really  
19           in New York's context.  And so we saw a lot of value  
20           in having that.

21                   We also, you know, part of what we're  
22           doing is we're looking at the filing from the  
23           utilities, which is out for comment now.  And we  
24           really want to make sure that we're aligned in a lot  
25           of ways for what that Statewide inventory is looking

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2 at, how it looks at emissions, so that we're being  
3 consistent across our two agencies.

4 And also so that we don't have varying  
5 pieces of information out there that could be  
6 confusing to the public. So it's a very good  
7 question.

8 COMMISSIONER VALESKY: Great, thank  
9 you.

10 MR. ROSENTHAL: Let me just add one  
11 more thing for you. So they -- there is a  
12 requirement of the C.L.C.P.A. for the D.E.C. to come  
13 out with an emission reduction plan, and that first,  
14 you know, plan is due January -- it's -- I -- I --  
15 it's due in January of 2024.

16 COMMISSIONER VALESKY: I think that's  
17 what I'm --

18 MR. ROSENTHAL: That's the one that  
19 you're referring to.

20 MS. WALDORF: That's the cap and  
21 invest program that's on the slide.

22 MR. ROSENTHAL: And that they're going  
23 to implement that through cap and invest. And let me  
24 just by way of example, we obviously are implementing  
25 renewables programs here. So that's going to impact



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2 the power sector.

3 D.E.C. may, you know, or is likely to  
4 include the power sector in its cap and invest  
5 program. If we, you know, as we move forward to 70  
6 by 30, that sector is obviously going to be  
7 decreasing emissions, right?

8 And so I don't know to what extent  
9 D.E.C. would have to take that into account in their  
10 cap and invest program, but I just wanted to give  
11 that by way of an example.

12 COMMISSION VALESKY: Okay, thank you.  
13 I appreciate that. And my other -- to slide 8, if we  
14 could go back to slide 8 for a moment. And again,  
15 those Commissioners who have both talked about  
16 transparency and also what they would like to see  
17 going forward.

18 And Chair, I'll take your offer of  
19 adding a suggestion at this point as well. So if --  
20 if we see this slide, it technically by an hour or so  
21 is already out of date, right? Now, you could not  
22 have added the line that would have said at the end  
23 July 2023.

24 Because it would have referred to item  
25 203, which we hadn't approved yet. But an hour or so

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2           ago, that would now be on there, right? So as a  
3           suggestion, this is not a question, but a suggestion  
4           for you and -- and the management team going forward.

5                   And I recall the conversation that Bob  
6           and I had at the time we did the order. Reflecting  
7           back on that, I think it would be really helpful to  
8           all of us and certainly to the public, and these  
9           slides are now in the public domain by virtue of them  
10          being presented here, right?

11                   To have almost a rolling tracker that  
12          continually updates now that you've done this, the  
13          first one is done and complete and finished. I don't  
14          know that we necessarily have to wait until next year  
15          for an entirely new report.

16                   One of the things I'm thinking, for  
17          example, if these slides or a truncated version of  
18          these slides, again, in the interest of transparency  
19          were put on our website, say. Then it would be very  
20          easy at the end of this session for you or -- or  
21          someone else here at the agency to add the line that  
22          says July 2023, the E.E.B.E. order that we just --  
23          that we just approved.

24                   So I -- I think, again, I think to the  
25          degree that we can make this sort of a rolling

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2           document or a living, breathing document as opposed  
3           to waiting until next year at this time, and -- and  
4           we'll all wait and see what happens and -- and go  
5           from there.

6                   If you could take that back and give  
7           that some thought, I'd appreciate that. Chair,  
8           obviously, through your leadership. Thank you very  
9           much.

10                   MS. WALDORF: I just want to jump in  
11           and say I think that's a good suggestion. You know,  
12           part of what -- what we were doing in kind of  
13           summarizing what each of the dockets -- dockets were  
14           in the appendices, for example, right?

15                   It shows an example -- it shows  
16           basically a description of what each of those  
17           initiatives are, but not a status of where those  
18           initiatives are. So, you know, definitely something  
19           that we can take into the future for either, you  
20           know, updates in this report and/or a way to give  
21           updates more frequently to the public and in between.  
22           So I appreciate that.

23                   CHAIR CHRISTIAN: Thank you.  
24           Commissioner Maggiore?

25                   COMMISSIONER MAGGIORE: Thank you. So

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2 I think the purpose of this report was to track and  
3 assess progress, and I think that this report does  
4 exactly that. Having spent most of my career on the  
5 staff side of things, I also want to acknowledge the  
6 enormity of the effort that went into producing this.

7 And I think that the first report is  
8 the toughest. So to Commissioner Valesky's point  
9 about updating this going forward, I think that  
10 hopefully that will be -- now -- now you've got the  
11 ball rolling. But I think this is an enormously  
12 useful report.

13 It's something that I suspect I'll be  
14 referring to in the future. I could also imagine  
15 this being extremely useful for other agencies, and I  
16 -- I couldn't help but think how useful it would be,  
17 you know, the C.L.C.P.A. calls out the D.P.S. and the  
18 -- the D.E.C.

19 But it also applies to every other  
20 State agency there is, and how useful it would be to  
21 see how they're doing with those provisions like  
22 Section 7, how they're doing, how the other agencies  
23 are doing.

24 But I want to congratulate you on  
25 accomplishing something that's -- that's quite

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2           enormous.  I do have two questions, and I think  
3           they're both quick.  The first is, you had mentioned  
4           a report on how benefits are going to redound to  
5           disadvantaged communities that is slated to come out  
6           next year.

7                   And I just wanted to ask if you  
8           anticipate that report is going to have a geographic  
9           back - breakdown of how those benefits are being  
10          realized.

11                   MS. WALDORF:  Sure, yeah.  So part of  
12          what was going into that report was the definition of  
13          the criteria by the Climate Justice Working Group for  
14          where these geographic areas are across the State and  
15          how to identify those communities.  So that period --  
16          that piece of work was done this year.

17                   So that information is now available.  
18          Now what's going to be done is, staff in our agency  
19          and across other agencies is going to be looking  
20          across every clean energy investment and program and  
21          try to determine, especially for the place-based  
22          investments, so where we can actually pinpoint a  
23          location where an investment was made.  How to be  
24          able to make --

25                   COMMISSIONER MAGGIORE:  Yeah.

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2 MS. WALDORF: -- that geographically  
3 transparent. So I think that will be part of the  
4 effort.

5 COMMISSIONER MAGGIORE: Okay, great.  
6 Thank you. And my other question is this. So you  
7 know, I think as a lot of the discussion has sort of  
8 indicated, there's an enormous interest including for  
9 me and I suspect from you, to wonder how the future  
10 is going to play out.

11 And I know that you -- you don't have  
12 a crystal ball, so we've talked about different ways  
13 of making assessments of what is expected to happen.  
14 But what I want to ask you is a question about where  
15 we are today in terms of how to -- how our -- how  
16 does it look in terms of how we're coming along on  
17 meeting our C.L.C.P.A. mandated goals?

18 MS. WALDORF: Well, I'll start off by  
19 saying I wish I did have a crystal ball. And you  
20 know, I think it's important to note that New York  
21 has been -- has the benefit of having already been a  
22 leader in the climate and clean energy space --

23 COMMISSIONER MAGGIORE: Yeah.

24 MS. WALDORF: -- for decades. We've  
25 built a really solid foundation of programs some of

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2 which, you know, we just heard about in the item  
3 before mine, that have put the State in a really good  
4 position to continue our efforts in renewable energy  
5 project development and maintaining the reliability  
6 of our energy systems.

7 And in the decarbonization of the  
8 buildings and transportation sectors. The actions  
9 that this Commission and the department have taken,  
10 you know, again with other partners at utilities and  
11 -- and elsewhere, have already shown some significant  
12 progress, and that's what you heard about today.

13 So we heard today about some of the  
14 progress that we've made on programs pursuant to the  
15 C.L.C.P.A. I think, you know, a lot of -- there's a  
16 lot of anxiety, I think, out there about how we can  
17 actually achieve the goals of the C.L.C.P.A.

18 But you know, I think we've learned a  
19 lot through the decades of work that the State and  
20 you know, the department and Commission have done  
21 through our work, either State partner-wise or with  
22 federal agencies, to really realize the achievement  
23 of projects.

24 I think that's really the focus of  
25 where we are today. There's significant

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2           opportunities to leverage benefits at the federal  
3           level, to work across some of the sectors of  
4           government to make some of these programs a reality.

5                   And so I think the goals are -- are  
6           definitely difficult to achieve, but there's no -- no  
7           denying that the scale and shift of investments is  
8           pretty significant. But you know, I think we're  
9           going to do that in continuing to maintain our core  
10          mission here at the department in preserving the  
11          reliability and safety of our energy systems.

12                   But also, I think one of the focuses  
13          for us, and I think we heard from a lot of the  
14          Commissioners today, is we need to do that with a  
15          lens towards preserving energy affordability. And  
16          that will be certainly a focus of many of us at the  
17          department at, you know, the Commission as well as  
18          other agencies as we really move these projects  
19          forward.

20                   But I think we're in a good spot. I  
21          think we've built a good foundation. But there's no  
22          doubt that there's a significant amount of work  
23          ahead, and it's going to require a significant amount  
24          of investment. And you know, part of what the report  
25          speaks to is a lot of the investment has been through



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2 rates.

3 But we really need to be creative in  
4 the way that we fund these projects and programs  
5 moving forward. And you know, certainly the work  
6 that we've been doing in working with utilities and  
7 other agencies in leveraging federal funding, to  
8 whatever extent we can and to whatever extent it's  
9 available, we're going to continue to do that.

10 Whatever means we have to reduce the  
11 cost impacts to ratepayers for these programs, rest  
12 assured that a lot of the folks at this agency and  
13 across State government are actively involved in  
14 making that a reality. So great question.

15 I wish I could say yes, for sure.  
16 It's achievable. But I think, you know, we've built  
17 a good foundation and we're on the way to getting us  
18 there.

19 COMMISSIONER MAGGIORE: Great. Thank  
20 you. And I just -- my final comment is just  
21 digesting the answer to that question that you just  
22 gave me. In light of the larger discussion that  
23 we've been having on -- on this item, we really have  
24 three enormous challenges.

25 The one is, you know, we talked about

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2           reliability. We talked about affordability. And now  
3           we just talked about achieving the legally mandated  
4           C.L.C.P.A. goals. And I don't think achieving any of  
5           those three things is going to be easy.

6                   But I -- I appreciate this report. I  
7           think that it tells us where we are today. Thank you  
8           very much.

9                   Ms. WALDORF: Thank you.

10                   CHAIR CHRISTIAN: Thank you. And with  
11           that, it has been 2 hours and 40 minutes since we  
12           began today's session. I think it's nigh time for a  
13           short break. Why don't we take 15 minutes to stretch  
14           our legs. By my clock, it's 01:10 p.m. and we'll  
15           return at 01:25 p.m.

16                   (Off the record; 01:10 p.m.)

17                   (On the record at 01:28 p.m.)

18                   CHAIR CHRISTIAN: All right. Good  
19           afternoon, everyone. Welcome back. We're now  
20           beginning our third discussion item for today. Item  
21           201, case is 22-E-0064 and 22-G-0065, which relates  
22           to the Consolidated Edison Company of New York's rate  
23           plan.

24                   It will be presented today by  
25           Administrative Law Judges, James Costello, and Ashley

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2 Moreno. Judge Costello, please begin.

3 A.L.J. COSTELLO: Good afternoon,  
4 Chair, and Commissioners. My name is James Costello.  
5 And I was assigned to preside over these proceedings  
6 with Administrative Law Judge, Ashley Moreno, who is  
7 with me here this afternoon.

8 Before you is a draft order that would  
9 establish electric and gas delivery rate plans for a  
10 three year period beginning on January 1st, 2023, and  
11 continuing until December 31st, 2025 for Consolidated  
12 Edison Company of New York, Inc., which I am going to  
13 refer to as Con Edison or the company.

14 The draft order generally would adopt  
15 a Joint Proposal or J.P. that was filed in these  
16 cases on February 16th, 2023. I'll briefly provide  
17 you with some background information, detail the  
18 agreement's revenue requirements and highlight  
19 certain provisions in the Joint Proposal.

20 The company commenced these  
21 proceedings in January of 2022. And after various  
22 parties filed testimony and rebuttal testimony, the  
23 cases proceeded to settlement negotiations, resulting  
24 in the filing of the Joint Proposal in February 2023.

25 The Joint Proposal was signed by Con

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2 Edison, Department of Public Service staff, the City  
3 of New York, New York Energy Consumers Council,  
4 Consumer Power Advocates, Walmart, and the  
5 Metropolitan Transportation Authority.

6 In addition, New York Power Authority,  
7 Natural Resources Defense Council, New York  
8 Geothermal Energy Organization and Mr. Bob Wyman  
9 signed the Joint Proposal with respect to Con  
10 Edison's electric operations and -- and Advanced  
11 Energy United signed the Joint Proposal in connection  
12 with the earnings adjustment mechanisms in the Joint  
13 Proposal or the E.A.M.s.

14 Con Edison, Department of Public  
15 Service Staff, the City of New York, Walmart, New  
16 York Energy Consumers Council, New York Power  
17 Authority, and the Metropolitan Transportation  
18 Authority filed statements in support of the Joint  
19 Proposal.

20 Advanced Energy United filed a  
21 statement in support of the E.A.M.s. Amtrak filed a  
22 letter stating that it did not oppose the Joint  
23 Proposal. The Environmental Defense Fund filed a  
24 statement of neutrality.

25 The Naturally Resources Defense

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2           Council and New York Geothermal Energy Organization  
3           filed statements in support of the electric  
4           provisions and in opposition to the gas provisions of  
5           the Joint Proposal.  Bob Wyman indicated his support  
6           of the electric provisions of the Joint Proposal but  
7           filed opposition to the gas provisions.

8                               City Bridge filed a statement in  
9           opposition to the electric provisions on limited  
10          grounds and N.R.G. filed a statement of limited  
11          opposition on behalf of energy service companies.

12                              The Public Utility Law Project of New  
13          York, A.A.R.P. New York, WE ACT for Environmental  
14          Justice and the Alliance for a Green Economy,  
15          Senator Robert Jackson, Sane Energy and Assembly  
16          Member Zohran Mamdani filed statements in opposition  
17          to both the gas and electric provisions of the Joint  
18          Proposal.

19                              The Department of Public Service  
20          staff, the City of New York, WE ACT, and AGREE,  
21          A.A.R.P., and PULP filed post evidentiary hearing  
22          briefs.  All of the arguments made by the parties in  
23          support and opposition to the Joint Proposal are  
24          addressed in the draft order before you.

25                              So I'll briefly turn to the revenue

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2           requirements and indicate that the revenue  
3           requirement increases in the Joint Proposal are  
4           significantly less than Con Edison's initial  
5           positions. In it's initial filing, Con Edison sought  
6           to increase electric delivery revenues by  
7           approximately \$1.2 billion, which would have resulted  
8           in a 17.6 percent increase in delivery revenues or an  
9           11.2 percent increase in total revenues.

10                                 Pursuant to the company's request  
11           during the period that would have covered rate year  
12           one, a typical residential electric customer using  
13           600 kilowatt hours a month would have experienced a  
14           total monthly bill increase of \$20.78, which  
15           represents a 13.1 percent increase.

16                                 For it's gas business, Con Edison  
17           requested an increase in annual gas delivery revenues  
18           of approximately \$500 million, a 21.8 percent  
19           increase in delivery revenues or an 18.2 percent  
20           increase in total revenues.

21                                 For the period that would have covered  
22           rate year one, a typical residential gas heating  
23           customer using 100 therms a month would have  
24           experienced the total monthly bill increase of about  
25           \$30.86 or a 15 percent increase.

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2 As stated earlier, the Joint Proposal  
3 would establish the electric and gas rate plans for a  
4 three year period. The Joint Proposal provides for  
5 electric delivery revenue increases of \$442.3 million  
6 in rate year one, \$517.5 million in rate year two and  
7 \$382.2 million in rate year three.

8 The Joint Proposal would levelize  
9 those rate increases to \$475 million per rate year to  
10 moderate rate impacts. On a total bill basis, the  
11 results would yield a 4.2 percent increase in rate  
12 year one, a 4.0 percent rate increase in rate year  
13 two, and a 3.8 percent rate increase in rate year  
14 three.

15 For gas delivery revenues, the Joint  
16 Proposal provides increases of \$217 million in rate  
17 year one, \$173.3 million dollars in rate year two,  
18 and \$122 million in rate year three. The Joint  
19 Proposal would levelize those increases to \$187.2  
20 million per rate year.

21 On a total bill basis, the results  
22 would yield an increase of 6.7 percent in rate year  
23 one, 6.3 percent in rate year two, and 5.9 percent in  
24 rate year three. To put this in context, in  
25 comparison to the 13.1 percent typical residential

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2 electric monthly bill increase for a 600 kilowatt  
3 hour per month customer that Con Edison originally  
4 sought for the period coming rate year one, the  
5 typical residential monthly bill increase for such a  
6 customer under the Joint Proposal is 5.8 percent.

7 And in comparison to the 15 percent  
8 typical residential gas monthly bill increase for 100  
9 therms per month heating customer that Con Edison  
10 originally sought for the period covering rate year  
11 one, the typical residential gas monthly bill  
12 increase for such a customer under the Joint Proposal  
13 is 7.2 percent. The Joint Proposal allows a 9.25  
14 percent return on equity with a common equity ratio  
15 of 49 percent.

16 It also includes an earnings sharing  
17 mechanism that is triggered if the company's actual  
18 return exceeds 9.75, in any rate year. The increases  
19 for the electric business are driven primarily by  
20 additional capital investments, changes in  
21 depreciation expense, and growth, and property taxes.

22 The increases for the gas business are  
23 driven primarily by additional capital investments,  
24 lower forecasted sales volumes, and changes in  
25 depreciation expense. Property taxes, which are



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2 beyond the control of the company, accounted for 33  
3 percent of the electric revenue requirement increases  
4 and 23 percent of the gas revenue requirement  
5 increases over the term of the rate plans.

6 The Joint Proposal allows Con Edison  
7 to be made whole by recovering shortfalls and  
8 refunding over collections resulting from the  
9 suspension period extension related to settlement  
10 negotiations. The Joint Proposal moderates the  
11 impact of the make whole by extending it's recovery  
12 through December 31st, 2024 for the electric business  
13 and through December 31st, 2025 for the gas business.

14 The Joint Proposal requires Con Edison  
15 to take various steps in furtherance of the State's  
16 greenhouse gas reduction targets and clean energy  
17 priorities as stated in the Community Leadership and  
18 Consumer Protection Act or the C.L.C.P.A.

19 This is in addition to the ongoing  
20 steps the Commission is taking to address the  
21 C.L.C.P.A. in various generic proceedings, including  
22 the C.L.C.P.A. implementation and gas planning  
23 proceedings. Among other things, the Joint Proposal  
24 includes funding for a distributed energy resource  
25 make ready program for low-income customers that will

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2 support C.L.C.P.A. distributed solar energy and  
3 energy storage targets and provide benefits to low-  
4 income rate payers.

5 It includes funding for the company to  
6 build two non-wires alternatives energy storage  
7 facilities, one of which will be located in the  
8 disadvantaged community in Glendale, Queens. The  
9 Joint Proposal provides funding for the rely --  
10 reliable clean city projects that will enable the  
11 retirement of older higher air polluting peaker  
12 generation plants, while providing a new pathway  
13 enabling 900 megawatts of renewable energy to be  
14 delivered to Con Edison's service territory.

15 The Joint Proposal funds programs and  
16 projects that will support electrification of  
17 transportation and heating, deliver offshore wind  
18 energy, and enable clean dist -- distributed  
19 generation resources to connect to the electric  
20 system.

21 It effectuates cost recovery of  
22 various programs that were authorized through  
23 separate Commission proceedings and will further  
24 C.L.C.P.A. goals including the electric and gas  
25 energy efficiency programs, the clean heat program,

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2 the light duty electric vehicle make ready program  
3 and associated medium and heavy duty electric vehicle  
4 make ready pilot, the Brooklyn, Queens demand  
5 management program and REV demonstration projects.

6 The Joint Proposal also subjects the  
7 company to more stringent leak backlog targets and  
8 requires it to prioritize the repair of high emission  
9 leaks by using advanced leak detection technology.  
10 It requires the company to continue repairing or  
11 replacing leak prone pipe using a risk-based  
12 prioritization algorithm and to assess whether it can  
13 eliminate gas main as part of it's gas infrastructure  
14 reduction or replacement program.

15 By considering whether a gas main is  
16 at the end of the system or has a small number of  
17 customers attached that are easy to switch to  
18 electric service using non-pipe alternatives. The  
19 Joint Proposal requires the company to conduct  
20 outreach and education for rate payers, who are  
21 planned recipients of gas service replacement on the  
22 benefits of electrification.

23 It requires the company to consider  
24 delaying associated main replacement work and  
25 facilitate electrification efforts in attempt to

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2 develop non-pipe alternative projects focused on gas  
3 service line replacements. The Joint Proposal also  
4 requires Con Edison to end all marketing and remove  
5 all marketing materials that promote the conversion  
6 to natural gas.

7 As explained in detail in the draft  
8 order, the Joint Proposal protects ratepayers  
9 maintains Con Edison's ability to obtain capital at  
10 reasonable rates and enables Con Edison to continue  
11 to provide safe and reliable service to customers.

12 The Joint Proposal does so while  
13 remaining consistent with the environmental, social,  
14 and economic policies of the Commission and State,  
15 including the C.L.C.P.A.. And it produces a result  
16 consistent with the potential outcomes that could be  
17 expected to have been achieved in a fully litigated  
18 proceeding.

19 All interested parties had a full  
20 opportunity to address the provisions of the Joint  
21 Proposal, which ultimately has been supported by  
22 various parties with diverse interests. Accordingly,  
23 we recommend that the Commission adopt the Joint  
24 Proposal, subject to the additional requirements  
25 regarding the filing in Con Edison's next rate case

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2           of a comprehensive summary of charges appearing on  
3           customer bills and associated impacts.

4                   And on reporting requirements  
5           regarding interconnection projects to receive  
6           renewable natural gas, both -- both of those are  
7           addressed also in the draft order before you. This  
8           concludes my presentation. A.L.J. Moreno and I and  
9           various members of senior staff are available for any  
10          questions that you may have. Thank you.

11                   CHAIR CHRISTIAN: Thank you, A.L.J.  
12          Costello, and A.L.J. Moreno. I know this is a long,  
13          difficult process and having sat in on a number of  
14          the public hearings, I know this was a fairly  
15          contentious case to bring about. You know, I think  
16          of our role here at the Commission as economic  
17          regulators.

18                   And it really is to strike a balance,  
19          very delicate balance, as you pointed out. One  
20          between the rates we need to charge customers and the  
21          rate of return that's fair to the utility. And if we  
22          do it right, customers get the service they need  
23          reliably and affordably. And utilities can provide  
24          that service reliably long term.

25                   Now, looking at what you were saying

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2           earlier about the number of parties that signed on,  
3           it seems several agree with that approach to varying  
4           degrees in some cases, but generally, there's some  
5           agreement that you've achieved that balance.

6                   But I look at the number of public  
7           comments in this case. I think, there were over 7500  
8           public comments. And just before I continue, I'm  
9           curious, is that the most you've seen in a rate case  
10          that you've worked on during your time here at  
11          D.P.S.?

12                   A.L.J. COSTELLO: I -- I don't know if  
13          it's actually the most, it is up there.

14                   CHAIR CHRISTIAN: It is certainly up  
15          there, yeah. And I mean, the number of comments I  
16          think, is aligned with the level of public interest.  
17          I think that's fairly direct and easy to acknowledge.  
18          And the one thing I think these comments all have in  
19          common, you know, despite varying tones and  
20          perspectives, you know, it's recognition that New  
21          Yorkers everywhere still face economic challenges  
22          coming out of the COVID pandemic.

23                   And, you know, these hardships are  
24          only going to be exacerbated further by rising  
25          prices. And in particular, when salaries are not

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2            rising at the same pace, as which these prices are  
3            rising. You know, I look at these challenges, and I  
4            think about that in the context of our role here, you  
5            know, as economic regulators. And even under the  
6            best of circumstances, I don't think there's a rate  
7            case in which anyone favors the rate increases that  
8            are coming down the pipe.

9                   And I think in this instance, you  
10            know, I look at what we're doing, I look at the  
11            projects that are moving forward and the rationale  
12            behind them. And I think I have solace in the fact  
13            that these investments are being used to reinforce  
14            much of the work we've already done in building the  
15            system of the future we're looking for.

16                   And further increasing that foundation  
17            and creating a better platform from which we can  
18            achieve our climate goals and other goals. And most  
19            notably, maintain reliability of the system. So I --  
20            I look at this and I see it as what it is, it's the  
21            result of a negotiation.

22                   And one of the things my negotiation  
23            professor shared with me many years ago is, very  
24            rarely does everybody get what they want in  
25            negotiation. And I think in this instance, that

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2 applies. Looking, where the utility started, we've  
3 significantly reduced the impact, I think, by more  
4 than 50 percent on customers.

5 And you've done more, and you've  
6 spread out that impact over time, which I think is an  
7 important point to note. And though we recognize  
8 affordability, you know, we also recognize we need to  
9 maintain the system, we need to keep it going. And  
10 this rate case will help do just that.

11 On the subject of affordability, the  
12 Commission has done much to advance that issue,  
13 through our arrears reduction programs and a variety  
14 of other energy affordability programs as well. And  
15 we'll continue those efforts to help individuals who  
16 are burdened by higher rates.

17 But ultimately, I look at the work  
18 before me and present it in this order. And I see  
19 your work product that is ultimately consistent with  
20 State policies and aligned with the greater good. So  
21 I want to thank you for your hard work. And, you  
22 know, thank you, appreciate it. We'll go to  
23 Commissioner Burman.

24 COMMISSIONER BURMAN: Thank you so  
25 much. So first, I want to take a moment of personal



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2 privilege to really recognize that under A.L.J.  
3 Lecakes, the -- the office of the A.L.J.s has never  
4 run smoother and the trust that I have in the due  
5 diligence and professionalism. And all of you even  
6 have really worked together well as a team.

7 And it's really nice to feel that you  
8 have really, really good ability to have thoughtful  
9 analysis, to try to work hard at working with the  
10 different parties, who may have very different  
11 opinions, and to try to get the best work product out  
12 there in a way that is sound.

13 And I just really thank you, it's not  
14 just this case, but it strikes me that this was a  
15 really hard case.

16 A.L.J. LECAKES: And thank you,  
17 Commissioner, we really appreciate that.

18 COMMISSIONER BURMAN: So this -- this  
19 for me, is one that I will be supporting while  
20 recognizing the huge challenges because it is a huge  
21 pain for -- there will be pain. It's a huge rate  
22 increase. And, you know, outside seeing sort of all  
23 the other things that are outside of the rate case,  
24 it's not going to be easier for folks.

25 And, you know, I -- I kind of look at

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2 this as we have an obligation as a Commission to  
3 recognize the challenge and the goal of New York  
4 State Energy policies to balance reliability,  
5 environmental sustainability, safety, and the cost of  
6 energy supply to meet the needs and demands of  
7 consumers and to support the growth of our State's  
8 economy.

9 And that has really been a laser focus  
10 for me, especially, as we then look to what this  
11 means when we have the rate cases. And we have to be  
12 mindful as we move forward with system reliability,  
13 safety, resiliency and ensuring that we're properly  
14 and appropriately maintaining and modernizing the  
15 grid for the safety and reliability of customers.

16 And we have to look at it with policy  
17 considerations that are there. And looking at the  
18 order, the draft order and listening, I come back to  
19 what is our responsibility and the three prongs of  
20 the Commission's settlement guidelines, which  
21 established the criteria.

22 And the first is, striking a balance  
23 between protecting the utility's customers, providing  
24 fairness to investors, and enabling the long-term  
25 ability of the utility to provide its essential

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2           services to customers who rely on that service.  And  
3           I have no doubt looking at it that as a whole that  
4           prong is met.

5                   Then, the second is to be consistent  
6           with the environmental, social, and economic policies  
7           of both the agency and the State.  And while I may  
8           quibble on some of the things that are in there and  
9           disagree with perhaps some of the policy direction, I  
10          recognize the soundness of it being consistent with  
11          those policies.

12                   And also, trying to fit it within the  
13          appropriateness of moving forward in the transition  
14          of that.  And then, the third is, it produces a  
15          result consistent with the range of possible outcomes  
16          through a fully litigated proceeding.  And I -- I  
17          take pause there for -- for a moment.

18                   I think it does, but I struggled a  
19          little bit, because there were a number of parties  
20          who seemed to take exception to it in that, you know,  
21          being sort of focused on that thinking that the  
22          settlement process is one that is not fair.

23                   The settlement process being one that  
24          they would probably see it as not meeting the third  
25          prong of being consistent with the range of possible

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2 outcomes through a fully litigated proceeding. And  
3 kind of looking at that and -- and -- and sort of  
4 trying to wrap my head around that.

5 And the Chair talked a little bit  
6 about not everybody, you know, negotiations not  
7 everyone's -- if everybody's -- I forget exactly, but  
8 a little bit of not everyone's happy, so maybe every  
9 -- it's the fairest, right.

10 And there's certain different issues  
11 and trying to be give and take. Over the years,  
12 we've seen sort of a newer folks come into the  
13 settlement process, newer folks coming into the rate  
14 cases, different entities, different focus.

15 And so it is important for us to  
16 ensure that the process is fair, to ensure that we  
17 are working with everyone to help them understand the  
18 rate process and the settlement guidelines, and --  
19 and how we get from here to there.

20 And there is a certain timeline and  
21 that has to get done. Not lost on me I think there's  
22 about a six month make-whole provision, which does  
23 have a dramatic impact on costs that have to get  
24 baked then in after the Joint Proposal.

25 So I did ask staff prior, right, prior

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2 to the session, to give me their best guess on, you  
3 know, when some of the parties who have opposed the  
4 proceeding perhaps have they always opposed rate  
5 cases, have they ever supported a rate case knowing  
6 that, you know, there was -- it'd be different for a  
7 little bit and their general recollection, which I  
8 think is a correct one.

9 AGREE New York signed on to NYSEG gas  
10 and RG&E gas in the 2019 rate case and signed on to  
11 Central Hudson's J.P. in the 2020 rate case. PULP  
12 signed on to Central Hudson's J.P. in the 2020 rate  
13 case and the 2017 rate case.

14 PULP also signed the O&R Gas J.P. in -  
15 - that was in case 18-G-0068. Sane Energy has never  
16 signed on. But it's important to note that they  
17 never got involved in rate cases until the 2019  
18 KEDNY case. And A.A.R.P. has signed in the past, but  
19 they tend to only become a party to maybe one third  
20 of active rate cases.

21 And they generally only get involved  
22 in the Con Ed and KEDNY, KEDLI cases. And that's  
23 been for about the past decade or so. So -- so why  
24 is this information important? Because I do think  
25 that the rhetoric around that the process is unfair,

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2 is one that we need to be very cognizant of, but  
3 also, pushback when it's an unfair characterization.

4 I do think that the process, like any  
5 process can always be improved. I do think that  
6 there is a significant due diligence on the part of  
7 the A.L.J.s to ensure that the process is fair. And  
8 I do think that in this case, while there may be  
9 parties who are opposed to it, they're opposed to it,  
10 perhaps on substantive reasons.

11 But I don't think it is the fault of  
12 the procedural process. In fact, I think the  
13 procedural process has been very sound. And I -- and  
14 I raise this not to diminish the frustration with the  
15 parties who are opposed. I think that it's healthy  
16 to -- to, you know, raise up your voice.

17 And I think it's -- it's helpful to us  
18 both process wise and substantively, but I raised  
19 that because we have to meet the prong of, is the  
20 result consistent with the range of possible outcomes  
21 through a fully litigated proceeding.

22 And if the process was deemed unfair  
23 by us, that prong wouldn't be met. And I raise it  
24 more as a -- I think we need to take note of that. I  
25 will say that for sometimes, if -- if every party who

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2 supported it always supported it, right.

3 If -- across the board, you only had,  
4 you know, all ten people who were participating  
5 always supported it, you might need to look at what  
6 that is, right. Now, we also look when we only have  
7 a proceeding where only staff and the company is  
8 supporting that because that's something that we have  
9 to look at, right.

10 So information on who supports it and  
11 opposes it, actually goes into our deliberative  
12 process after the J.P., because I think it's for us  
13 to weigh what some of those concerns were  
14 substantively to see about the soundness of the Joint  
15 Proposal.

16 So even if you oppose the Joint  
17 Proposal, I feel like your voice is heard. You may  
18 not, even if we support the Joint Proposal, it does  
19 you know, obviously, I can understand a party who's  
20 opposed to it being upset by that.

21 But we did carefully evaluate your  
22 concerns and also look to what this means going  
23 forward. So the rate case and the decision is not  
24 then the end of your concerns, it may be the end in  
25 terms of for the -- the rate itself, but some of the

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2 very issues you may have, are actually looked at and  
3 other things as well.

4 So I don't know if that is helpful.  
5 But for me, it's important. And, you know, I will  
6 pause, in case you have any thoughts to that but.

7 A.L.J. LECAKES: I'll just say, first,  
8 that I really want to thank Judges Moreno and  
9 Costello, for their professionalism and their  
10 dedication throughout this proceeding. And I -- I  
11 say that about all the Judges, I have the utmost  
12 regard for all the A.L.J.s in our office and that we  
13 all appreciate the seriousness with the matters that  
14 come before us.

15 And we show all the due care, respect,  
16 and fairness to all the parties that the Commission  
17 expects of us under the Public Service Law, the  
18 Office of Hearings is designated by the Chair to  
19 represent, to stand in the place of the  
20 Commissioners, to manage the litigation matters that  
21 come before the Commission. And there is a lot of  
22 trust in that from the Commission.

23 And we honor the trust that you put in  
24 us to manage that and -- and try to approach things  
25 with that mind. I think we often run into parties



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2 who misunderstand that while they're free to make all  
3 of the claims that they want in a case that comes  
4 before us that the Commission's regulations with  
5 regard to hearings, just ensure that those claims are  
6 fairly vetted and fairly heard.

7 But it doesn't entitle an outcome that  
8 necessarily is favorable to them. And that goes for  
9 both settlement agreements and compacts that are  
10 provided to us, as well as -- as litigated outcomes.  
11 The last rate case that went fully litigated, that  
12 ended up with a recommended decision was the 2016  
13 National Fuel gas rate proceeding. We've had a  
14 couple of fully litigated cases since then, but  
15 instead of having a recommended decision, they went  
16 straight to order.

17 But if you look at that 2016 rate  
18 case, you can see where the process of a recommended  
19 decision allows the Administrative Law Judge to put  
20 into words on paper, the evaluation of all the claims  
21 that are being made and why logically, you know, the  
22 thought processes behind what gets credited and what  
23 doesn't.

24 And while that's in some of the orders  
25 that didn't get presented to the Commission, I think

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2 that that middle step often gets lost. And we don't  
3 produce recommended decisions in Joint Proposal  
4 situations. And it's often because we wanted to get  
5 the Joint Proposal decided sooner rather than later.

6 But I -- I don't know other than  
7 saying it how to try and assure these parties that  
8 they are given a fair hearing on all of the claims  
9 that they bring forward, we take them seriously. And  
10 we consider whether their input can change the  
11 recommendations that we make.

12 And again, we provide the parties with  
13 the Commission settlement guidelines, every time the  
14 parties go into settlement negotiations. And we  
15 abide by those, and we follow those. And -- and we  
16 give them the process that the Commission requires us  
17 to.

18 COMMISSIONER BURMAN: Thank you for  
19 that. Then I just have two sort of questions, one  
20 is, in -- before, in item 203. We made some  
21 decisions related to E.A.M.s. And in this Joint  
22 Proposal, there's a number of E.A.M.s that encourage  
23 the company to deliver beneficial outcomes.

24 Electrification, energy efficiency,  
25 and heating of buildings from both electric and gas,

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2 increasing the megawatts of demand, reduction in  
3 demand response programs, accelerating light duty  
4 electric vehicle adoption, reducing average company  
5 timelines for interconnection, and transportation  
6 electrification projects, working with solar D.E.R.  
7 and expanding the use of solar D.E.R., supporting  
8 installation of customer sited energy storage, and  
9 developing an E.A.M. for managed charging over the  
10 next two to three months.

11 How does this align with item 203,  
12 which takes a pause on the E.A.M.s, going forward?  
13 And I -- I don't know if it's for the A.L.J.s or I  
14 know, you know, I don't -- I don't want to put anyone  
15 in uncomfortable spot but.

16 A.L.J. MORENO: Okay. I think that  
17 certainly a lot of deliberation went into looking at  
18 the two items together. And the Joint Proposal  
19 included E.A.M.s that were designed to reward  
20 behavior that was going beyond standard fare.

21 And also the rate plan goes through  
22 2025, the emphasis in the E.A.M. order looks beyond  
23 that point. So I guess with any further nuances to  
24 that perhaps I could turn to Kevin Manz.

25 MR. MANZ: Yeah. So one of the

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2           nuances would be that in the -- in item 203, those  
3           E.A.M.s were specific to those that are energy  
4           efficiency and building electrification related, not  
5           -- not E.A.M.s across the board, just -- just kind of  
6           those specific topics.

7                   And I would echo the Judge Moreno's  
8           point that item 203 is putting a pause on anything  
9           new, that would come up and likely extend beyond that  
10          2025 timeframe.  If there were a Joint Proposal that  
11          was multi year, it would go beyond that.

12                   So this pause from 203, is really kind  
13          of related to an older vintage of the E.A.M. in  
14          energy efficiency and building electrification, of  
15          which this particular Joint Proposal does not include  
16          this for E.E. and B.E.  The E.A.M.s are of a  
17          different design.

18                   COMMISSIONER BURMAN:  Okay.  Thank  
19          you.  I think that's important.  I do think that,  
20          sort of my kind of looking at it and -- and going  
21          back and forth over it, I'm comfortable in that the  
22          203 item one is not saying no to E.A.M.s and is also  
23          looking at it post 2025.

24                   But I also think that in here, in --  
25          in this Joint Proposal that -- that's before us, it's

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2 also about, you know, it's somewhat aligned with the  
3 messaging in the 203, related to delivering deeper  
4 savings, right. And not just, you know, I wouldn't  
5 say sharing the road but sharing the savings.

6 So from that, I think it's important,  
7 this obviously will impact other, you know, Joint  
8 Proposals that are out there, as well, because the  
9 order makes clear, it's for those that are entered  
10 into after the fact.

11 So to the extent that we're looking at  
12 that, I think that's important. Okay. So thank you  
13 for clarifying, that's -- that's helpful. The other  
14 issue is, there's a focus on, rightfully so, that  
15 there's been in under subscription in energy  
16 affordability programs.

17 Now, my understanding is that, you  
18 know, we are leaning in more in terms of trying to  
19 get more folks signed up on, energy affordability  
20 programs. But it's not just a New York issue. And  
21 in fact, you know, there has always been a need to do  
22 all we can from an education and outreach perspective  
23 to increase the reach of our low-income energy  
24 programs, whether in New York or nationwide.

25 And there's a lot of research being

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2           done in terms of how to do that in a way that helps  
3           address some of the challenges there.  So I just  
4           wonder if we feel comfortable that it's being  
5           addressed or will be addressed sufficiently in this  
6           Joint Proposal and some of the -- the directives that  
7           that are there to -- to really increase that customer  
8           outreach, and I see.

9                   A.L.J. MORENO:  Yes, I think so.  It -  
10          - the Joint Proposal includes provisions to conduct  
11          on a quarterly basis, the file matching procedure.  
12          And there's also additional provisions included in  
13          the Joint Proposal that would kind of put a check on  
14          that system to ensure that it's working as designed  
15          and that there are not any problems with that  
16          process, so that the reporting with regards to the  
17          file match process will come into the E.A.P. reports  
18          that it conducts.  If there are any issues, there's a  
19          required reporting to the parties in the case to  
20          advise of that.

21                   So I think that from the record that  
22          we have before us and what's included in the Joint  
23          Proposal, it appears that the program and the checks  
24          that are involved in the -- in the Joint Proposal and  
25          requiring also of the company to have more internal

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2           controls over that process, I think, indicates that -  
3           - that any problems that may have experienced in the  
4           past with regards to enrollment, that there are new  
5           checks in place to ensure that those problems do not  
6           arise again.

7                                COMMISSIONER BURMAN: Thank you.

8                                A.L.J. MORENO: And I don't know  
9           whether Aric --

10                               COMMISSIONER BURMAN: Thank you.

11                               A.L.J. MORENO: -- might have anything  
12           further. Absolutely.

13                               MR. RIDER: Can you hear me? So just  
14           a couple of facts for you to -- to consider. Over  
15           the last year Con Ed's enrollment has -- in E.A.P.,  
16           has increased by about nine percent.

17                               In June of 2022, enrollment was  
18           440,000 participants and that has increased to  
19           479,000. And though that the increases are really  
20           due to our work in phase one, where we encouraged  
21           customers to enroll in the E.A.P., and they could get  
22           a arrears relief.

23                               We also worked on additional outreach  
24           and education in those forums. And we also developed  
25           self-enrollment processes Statewide, so that

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2           customers could take advantage of that enrollment to  
3           E.A.P., so enrollment is going up at Con Edison.

4                   And I would also say that enrollment  
5           is a Statewide issue.  It's not a Con Ed issue, it's  
6           a Statewide issue.  And in the Energy Affordability  
7           Policy Working Group, we're actively working to  
8           identify what the universe of energy affordability  
9           participant should be and ways to improve enrollment  
10          moving forward.

11                   COMMISSIONER BURMAN:  Thank you.  I  
12          appreciate that.  It also is something when I'm  
13          looking at this, that I recognize that a lot of the  
14          rate increase is due to things outside of the control  
15          of the company itself, whether it's State mandated  
16          policies or other local mandates.

17                   And so, you know, that's something  
18          that we need to be mindful of, especially as we look  
19          forward in other clean energy policy initiatives and  
20          understanding that, you know, the upward trend and  
21          the cost impacts are going to grow and increase.

22                   And as we see from the New York  
23          I.S.O., power trends and Star Report and NERC and  
24          other things, you know, the reliability issues are  
25          paramount for us to really get a handle on and



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2           understand, especially in the New York City  
3           footprint, the significant challenges that are there.

4                   So anyway, so I thank you.  I  
5           appreciate I think the overall draft order that's  
6           before us and I will be voting yes.  Thank you.

7                   CHAIR CHRISTIAN:  Thank you,  
8           Commissioner.  Commissioner Alesi.

9                   COMMISSIONER ALESI:  Thank you, Mr.  
10          Chairman.  I'm going to applaud this effort.  It's  
11          not easy, everybody wants the most they can get and  
12          give the least they can give.  But I think that our  
13          history in this room and related kinds of  
14          circumstances tells us that compromise is probably  
15          the best way to get something done.

16                   And this is a compromise, it's an  
17          agreement.  So this agreement does, I think satisfies  
18          first and foremost, the public interest in knowing  
19          that they are going to have reasonable amount of  
20          charges for the goods and services, not an exorbitant  
21          amount, but a reasonable amount provided by the  
22          business that needs that income so that it can pay  
23          for the things that it provides.

24                   And that also includes paying for, in  
25          the cases where labor is unionized, paying for those

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2 agreements. But again, all of that leads to a  
3 stability, you have all kinds of agreements between  
4 everybody. And that's good. That's a solid thing  
5 for a three-year period.

6 People can rest easy, while they're  
7 complaining about not getting enough and paying too  
8 much. But the fact of the matter is, nothing is  
9 perfect. This will keep the utilities alive, it will  
10 keep the employees alive, it will, no pun intended,  
11 it will keep the ratepayers alive.

12 And even some of the investors might  
13 enjoy three more years of life, if they're satisfied  
14 with the returns that come to them. But everybody  
15 should feel confident in this because goods and  
16 services will continue to be produced in a workplace  
17 and in a stable workplace.

18 And that's good for those people that  
19 do work. The outcome we'll put most likely will be a  
20 good outcome. There's some satisfaction and some  
21 security knowing that when you have a multi-year  
22 agreement, that you also have a certain amount of  
23 security involved in knowing that when you go to work  
24 for which you get paid, your job means something, you  
25 do your job.

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2 The same amount of security that when  
3 you flick on the switch when you're paying your bill  
4 that the lights will come on, simple things that you  
5 don't think about. So what am I driving at here,  
6 nobody wants to pay more, nobody wants to work  
7 harder, nobody wants to buy goods and services that  
8 are more expensive, but everybody wants what this  
9 kind of a deal will produce.

10 And that's what's going to happen  
11 here. It will also, to some extent, be a benchmark  
12 for other rate case increases that are standing on  
13 the hilltops right now, ready to roll into this room.  
14 So I think that it's a good agreement.

15 I think it makes a statement for a  
16 very large organization that it will be able to do  
17 what it says it's going to do to satisfy the people's  
18 needs. And I think that the other utilities that are  
19 coming down the road will recognize the strong  
20 philosophy and the strong willingness to have a  
21 meaningful debate that produces a meaningful product.

22 That's what they should be looking at  
23 when they come into the room. So that's my overview  
24 and I'll be supporting it with my vote.

25 CHAIR CHRISTIAN: Thank you

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2 Commissioner. Commissioner Edwards.

3 COMMISSIONER EDWARDS: Yes. Thank you  
4 very much. I have two questions. The first is, I'm  
5 not sure if the A.L.J.s heard my question, in the  
6 prior discussion about the 14 million cost recovery  
7 and if that was somehow reflected in this rate case.

8 I think Bob answered it in Part, I  
9 just want to see if either one of you have any other  
10 comments.

11 A.L.J. MORENO: I will turn to Tim  
12 Canty for assistance with this.

13 MR. CANTY: So the -- the amounts  
14 shown on that slide, those specific costs are not  
15 included.

16 SECRETARY PHILLIPS: Can you please  
17 speak up and turn on your mic.

18 MR. CANTY: So that slide is related  
19 to 2022. So those specific costs on that slide were  
20 -- are not included in this rate case, but there are  
21 C.L.C.P.A. costs that are what we're looking that are  
22 included in this case.

23 So these are cumulative numbers,  
24 energy efficiency about \$189 million over the three-  
25 year period. Smart charge, \$1.6 million over three-

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2 year period. E.V. make ready 6 million dollars over  
3 the three- years. And on gas side, \$47 million over  
4 the three years for energy efficiency.

5 COMMISSIONER EDWARDS: So if that --  
6 so if the 14 million is reflected in 2022. And if  
7 this is a forward looking rate case, what happened  
8 with those dollars, like, where was the cost recovery  
9 allocated?

10 MR. MANZ: So those costs would have  
11 been collected in 2022 under the previous rate plan.

12 COMMISSIONER EDWARDS: Under the  
13 previous rate plan.

14 MR. MANZ: Or the -- the current rate  
15 plan, I guess.

16 COMMISSIONER EDWARDS: Okay. Okay. I  
17 guess, okay.

18 MR. MANZ: I -- I'll clarify some of  
19 that, is that -- so that's the portion that were in -  
20 - in base rates of that 14 million, not all of those  
21 are collected through base rates but some are through  
22 surcharges.

23 COMMISSIONER EDWARDS: Okay. All  
24 right. So A.L.J. Costello, can I just ask you, since  
25 you preside over these deliberations, when the

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2           initial submission comes in from Con Ed with the  
3           revenue requirements, can you just talk a little bit  
4           about what is the process so what -- what happens and  
5           if you could just step me through that a little bit  
6           on what is done with that.

7                    Because the initial submission, using  
8           your words, came in at rate year one with a -- let me  
9           just go back to your original comment, hold on one  
10          second. For the electric -- electric side, it was a  
11          17.6 increase and on the gas side, it was a 28.1  
12          increase in delivery or 18.2 increase in total  
13          revenues. So once that comes in what happens next?

14                   A.L.J. COSTELLO: After that they have  
15          an opportunity to file corrected and updated  
16          testimony, which can modify that -- those numbers  
17          somewhat and I think they modify them downward a bit.  
18          Then staff and all the parties, but staff especially,  
19          does a complete review of all of the programs that  
20          are being proposed.

21                   They do a bottoms up review too, and  
22          then, determine what things are appropriate and  
23          necessary. And they come back, and they put in  
24          testimony and exhibits, supporting what they believe  
25          is -- is appropriate and necessary for one rate case.

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2 During the -- during the evidentiary  
3 period, it's all about the one rate case and so then  
4 the utility has an opportunity to submit rebuttal  
5 testimony and exhibits agreeing or disagreeing with  
6 staff. And then, from there when they go into  
7 negotiations, that's -- those are the -- the -- the  
8 limits that we have, that people are looking at, that  
9 they can negotiate with.

10 And I'm going to also give somebody  
11 else an opportunity to give maybe a more detailed  
12 explanation but that's generally the process that's  
13 involved.

14 COMMISSIONER EDWARDS: Okay. Does  
15 anybody else want to say anything before I continue?

16 A.L.J. MORENO: Before, I guess, we  
17 look to advisors, staff from other offices. I would  
18 just also add that the process that comes before us  
19 is the final working product of each of the parties  
20 to the case.

21 So while D.P.S. trial staff may be  
22 reviewing all of that information and creating their  
23 case, what we see from the bench is the final product  
24 that gets filed -- the pre-filed testimony in the  
25 case. So certainly another member of senior staff

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2 can talk to maybe more, in more detail about what's  
3 involved in the D.P.S. trial staff review.

4 But from our perspective, what we see  
5 coming in is as Judge Costello mentioned, the initial  
6 rate filing followed by an update during that period  
7 of time, all of the parties are conducting discovery  
8 and further investigating the filings of the company  
9 so that they can develop their case to put forward  
10 for the record.

11 A.L.J. LECAKES: And Director Hogan,  
12 do you want to --

13 MR. HOGAN: Okay.

14 A.L.J. LECAKES: -- talk about the  
15 Commission's policy on historic test year?

16 MR. HOGAN: Sure, I'll -- I'll address  
17 that. And I think that references A.L.J. Costello's  
18 you mentioned, bottoms-up approach. And so  
19 regardless of what the company files, regardless of  
20 the size of it's increased request, what staff is  
21 looking at, it starts with a historic test year, a  
22 historical test period with the actual numbers, and  
23 then, it forecasts. I apologize with the -- is it  
24 possible to close that door. It's coming from there.

25 Okay. So I hear myself two seconds



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2 after the fact, it's a little distracting. We start  
3 with historical test year. Is there a way to --.

4 COMMISSIONER EDWARDS: Listening to  
5 you twice is always good.

6 MR. HOGAN: Most would say they still  
7 don't understand it after that, but it keeps me  
8 employed. So we start with historical test year, we  
9 have -- we have actual costs that the company has  
10 incurred. And so we then forecast what during the  
11 rate year the costs are going to be.

12 And to do that, we will often look at  
13 what inflation is going to be for some cost elements,  
14 we'll look at what program changes are being  
15 designed. We'll look at what debt costs are expected  
16 to be in the future.

17 All of this leads to a forecast of  
18 what total expenses are going to be; a bottom up  
19 approach, labor, amount of capital investment. Mike  
20 Reider could speak better to this, but there's a very  
21 rigorous process we do to investigate what the  
22 company is doing in terms of capital improvements.

23 And so staff will, I'll say sharpens  
24 pencil and make adjustments to what has been  
25 requested in terms of capital investment, that's

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2 going to impact how much return is required, how much  
3 depreciation expense there is.

4 All of these elements are worked on,  
5 leading to a cumulative dollar amount for the rate  
6 year that staff thinks needs to be recovered by the  
7 company. Again, a bottoms-up approach. That's --  
8 that's independent from what the utility files, and  
9 then, staff's adjustments are based on the delta  
10 between what the company filed and what staff has  
11 filed and, of course, other intervenors weigh in  
12 often on the level, definitely not a level of detail  
13 I just mentioned on individual elements, but they do  
14 weigh in on certain costs, certain projects, et  
15 cetera and all of that finds it's way into the  
16 settlement process as well.

17 COMMISSIONER EDWARDS: Thank you. So  
18 I -- I want to make sure I make a couple of points.  
19 One is, I think, that the staff and the -- the Judges  
20 do a tremendous job in the settlement negotiations.  
21 I can't say enough about all of the hard work that  
22 all of you have put into this.

23 So I want to make sure that my -- my  
24 comments now are not taken in any way to be a  
25 reflection on the team. I have a tremendous concern

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2 about the structure and the process. Because we do  
3 have a responsibility for balance.

4 Our economy is improving, we've just  
5 went through a budget process for the State that I  
6 think was responsible and sound. However, you know,  
7 people are still rebounding. And although that we're  
8 on a rebound, there are families that were already  
9 behind. So they are rebounding, but they are not  
10 getting ahead yet.

11 So my biggest concern that I just  
12 cannot get past, I cannot get past is that the  
13 starting point that the utility put in here is to ask  
14 a typical family to have a monthly bill increase as a  
15 starting point on the electric side of 13.1 percent.

16 And on the gas side is 15 percent. I  
17 -- I just cannot get past that because I hear you  
18 that the staff is doing a bottoms up. But I also  
19 heard that there are adjustments that the staff and  
20 the process is looking at what the company submitted,  
21 that the company is then given an opportunity to  
22 rebut.

23 So although there is a bottoms-up, I  
24 cannot get past that the company originally is asking  
25 for way too high of an amount to then get to this end

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2           result.  And unfortunately, rightfully, or  
3           wrongfully, I believe that if they had come in at a  
4           much more just and reasonable initial starting point,  
5           we could somehow have had a even better result.  
6           That's my view.

7                   We have tremendous things that we have  
8           to balance especially with our priorities with  
9           C.L.C.P.A., which is critically important.  So we  
10          have to balance what are all of the other investments  
11          that have to be made.

12                   And, you know, in simple terms, just  
13          in simple terms, I tried to think of an analogy.  And  
14          the only thing I can come up with is that when I used  
15          to ask for stuff with my parent's, Commissioner, I  
16          used to ask for a whole bunch of stuff.

17                   Thinking that I get some of it, I'll  
18          get some of it.  So I asked for everything.  And  
19          then, the negotiation starts between myself and my  
20          parents, and then I would get something.  And that's  
21          what I just cannot get out of my head.  That I don't  
22          understand why a utility, in this day and age, would  
23          put on a table an original submission of 15 percent,  
24          of 13.1 percent.

25                   I -- I just can't -- I don't -- I

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2            don't get it.  I just -- I just don't get it.  I  
3            don't understand the world that they are living in.  
4            I just, I don't.  So it's probably better that they  
5            don't hear me because I'm going to get worse as I go  
6            on.

7                                But listen, I -- I want to start where  
8            -- I want to end where I started.  I truly believe  
9            that the A.L.J., the Judges, the staff, you did every  
10           -- I can't think of something else you could have  
11           done.  So if the question is, what else that we could  
12           have done, I don't think that you could have done  
13           anything better than what you are doing now.

14                               My core issue with this is we have to  
15           change what this process is because the starting  
16           point and that has to be on the utility, cannot be on  
17           us.  The starting point of putting in a submission  
18           and asking for customers to pay this amount  
19           initially, to get to the end result of where we are  
20           now.

21                               I believe that if they had done a  
22           better job at their starting point, we would have had  
23           a better result.  That's where I am.  So I don't know  
24           if anybody wants to have any comments, but that's  
25           where I am.

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2 A.L.J. MORENO: Commissioner, not --  
3 not with respect to your opinion. But just a  
4 clarification on the process is that --

5 COMMISSIONER EDWARDS: Uh-huh.

6 A.L.J. MORENO: -- I just wanted to  
7 distinguish the work of D.P.S. trial staff versus the  
8 work of myself and Judge Costello in that we're  
9 presiding over the case. And D.P.S. staff is among  
10 the various parties that participate.

11 But when the parties enter into  
12 settlement, it is a confidential process. And so we  
13 see an end product coming out. So I just -- I just  
14 wanted to distinguish that, that to acknowledge that  
15 we're not involved in the negotiations or part and  
16 parcel to it. We are reviewing that document when it  
17 comes in and ensuring that all parties have an  
18 opportunity to be heard with regards to the proposal  
19 that was reached by the parties.

20 COMMISSIONER EDWARDS: Okay. And but  
21 Judge Moreno, it is correct, though, that when the --  
22 when Con Edison submits their initial proposal, you  
23 make sure that the back and forth that happens, but  
24 it is based on the starting point of their original  
25 proposal, that does start the process, correct?

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2 A.L.J. MORENO: Sure. The rate filing  
3 begins the process of review and is the beginning of  
4 the case, so to speak, is when they come in and file  
5 that document in the rate request. And at that point  
6 in time, that -- that's when the parties come into  
7 the process and -- and those different parties have  
8 the opportunity to scrutinize the filing, ask lots of  
9 questions, to better understand what's being proposed  
10 and the justifications for it.

11 And that's what informs the process  
12 for D.P.S. staff and other parties, informing their  
13 cases.

14 COMMISSIONER EDWARDS: Okay. So there  
15 was a document that Con Edison initially put in, that  
16 said that they are in fact requesting a gas annual  
17 delivery revenue increase of 28.1 percent. And a  
18 electric of 17.6 percent delivery.

19 And the monthly bill increase if that  
20 had been, that was the starting point was average,  
21 13.1 percent on the electric side and 15 percent  
22 monthly bill increase on the gas side.

23 A.L.J. MORENO: That is correct, yes.

24 COMMISSIONER EDWARDS: Okay. I have  
25 no further questions.

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2 A.L.J. LECAKES: And Commissioner, we  
3 appreciate your position on this. But we thank you  
4 for your recognition of the work that both the  
5 A.L.J.s and -- and the staff trial team do in these  
6 cases. Thank you.

7 COMMISSIONER EDWARDS: No, thank you,  
8 because I don't want my position in any way to be  
9 interpreted as a criticism of all of the work that  
10 all of you have done in any way.

11 A.L.J. LECAKES: And we don't take it  
12 that way. Thank you so much.

13 COMMISSIONER EDWARDS: Okay.

14 CHAIR CHRISTIAN: Thank you,  
15 Commissioner. We'll move on to Commissioner Howard.

16 COMMISSIONER HOWARD: Thank you. This  
17 is my second Con Ed case as a Commissioner. I just  
18 first want to say is there are things that we deal  
19 with the department that the department does. And  
20 this is what we do best. Rate cases, line by line  
21 analysis, back and forth with the company, hundreds  
22 of thousands of pages of testimony, charts, graphs,  
23 everything from the union review, the union contract,  
24 commodity purchases by the company, you name it, it's  
25 all scrutinized, penny by penny.



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2 But I want to ask some questions about  
3 the things that weren't talked about in this case.  
4 Why weren't they talked about in this case, because  
5 it is the case and the department have no control  
6 over. And the first thing is in it's -- and it's  
7 taxes, taxes.

8 And particularly, the very unique and  
9 I would say, well, I'll hold my comments for what I  
10 think later. But if somebody can, can we start with  
11 this thing, a third of the increase of the request  
12 was related to property tax increases, correct?

13 MR. CANTY: It's a third of the  
14 increase over the course of the rate case.

15 COMMISSIONER HOWARD: Over the course  
16 of the rate case.

17 MR. CANTY: And on the electric side.

18 COMMISSIONER HOWARD: Right. So on  
19 the electric side, we start negotiations with a third  
20 off the table. So a third of the money is just not  
21 even there. We can't -- it's not part of the  
22 negotiations. So what we have seen is at the end  
23 from the request to now, the halving of the request,  
24 was halving of the two thirds that roughly two thirds  
25 that was left that we could negotiate.

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2 And there were other mandated charges  
3 there. But well, it's up for generous I will say two  
4 thirds of the case is what we -- was we could talk  
5 about and what the negotiations and the settlement  
6 was about. So the things that are in there, just  
7 another question in terms of New York City.

8 In the out years of this, are we  
9 projecting that the levy stays flat? And what would  
10 happen if the property tax or any other tax levy was  
11 increased during the period of this settlement?

12 MR. CANTY: Yeah. I believe we did  
13 forecast it to be flat, and the growth is due to the  
14 increase in plan for the out years.

15 COMMISSIONER HOWARD: However, that  
16 doesn't mean it's going to be flat. If the city  
17 council, in their wisdom wants to raise that levy,  
18 that -- that is, again, outside, whatever happens in  
19 this case, correct?

20 MR. CANTY: That's true.

21 COMMISSIONER HOWARD: And at the same  
22 time, on the other side of that coin, should in their  
23 wisdom, they want to decrease levies, how would that  
24 be -- how would that effectuate itself?

25 MR. CANTY: So if they decrease the

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2 tax rate?

3 COMMISSIONER HOWARD: Correct.

4 MR. CANTY: Still, property tax  
5 expense will go down but we have a reconciliation  
6 mechanism for property taxes. So most of that money  
7 would go back to customers.

8 COMMISSIONER HOWARD: So bills, would  
9 they reduce the levy?

10 MR. CANTY: Uh-huh.

11 COMMISSIONER HOWARD: And bills go  
12 down?

13 MR. CANTY: Yeah. They would defer  
14 that for the benefit of ratepayers.

15 COMMISSIONER HOWARD: Okay. You know,  
16 I have a copy of a letter that was signed last week  
17 by the New York City Council, 36 members, New York  
18 City Council, they're crying and asking us to reject  
19 this settlement proposal.

20 And one of the phrases, we are  
21 confident Con Ed could afford to -- afford to forego  
22 a runaway revenue increase. During the recently  
23 passed New York City budget, which I followed  
24 relatively closely, there was no debate, no debate on  
25 the property tax levy and other associated levies

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2 that the City of New York charges Con Ed ratepayers,  
3 none.

4 There weren't amendments, there was  
5 nothing. So which is roughly, can you just remind me  
6 how much of this, of an average bill, Tim, is -- is  
7 just that property tax number?

8 MR. CANTY: So on the electric side,  
9 it's about 21 percent and the gas side about -- about  
10 15 percent.

11 COMMISSIONER HOWARD: So and I -- I  
12 agree that there are many, many folks who are in a  
13 terrible affordability crisis. And to a person, the  
14 elected officials, both in the city council and the  
15 State legislature, all asked for us to reject this,  
16 the settlement.

17 Not one suggested, well, we could be  
18 part of the -- of the -- of the process to get bills  
19 lower, we could lower people's taxes, taxes, by the  
20 way that you don't see enumerated in the bill, that  
21 21 percent there's no line 21 percent property taxes  
22 to New York City.

23 It's not there. It's for those that  
24 required said, the hidden cost, they made reference  
25 to the hidden cost of the return on equity to -- to

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2           shareholders, that was hidden. I would suggest that  
3           this was a bigger hide, you needed a bigger place to  
4           hold to put this down and not talk about it.

5                   And we also, it's important to  
6           understand how property taxes are done in New York  
7           State. The City of New York can't unilaterally and  
8           did not unilaterally put in a four-tier property tax  
9           system. They had to pass a home rule in the city  
10          council, then it had to go to the State legislature  
11          for approval of that home rule that would allow this  
12          property tax system to be implemented.

13                   So it's not just the folks who  
14          ultimately produce the annual levy. It's also the  
15          enablers in the State legislature that allow that tax  
16          to be implemented in the current way on the front  
17          end. So again, it is -- it is awful.

18                   And the back of the envelope  
19          calculation I have, if I'm a typical Con Ed rate  
20          payer who is a electric and gas heating customer, at  
21          the end of this rate year, at the end of this rate  
22          case, nearly \$1,000 a year, \$1,000 a year will go to  
23          the City of New York and taxes and to some extent,  
24          Westchester, a \$1,000.

25                   I submit that if the city council and

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2 the State legislature were really concerned about  
3 affordability, they could act today. As a matter of  
4 fact, I would hope they would come in tomorrow and  
5 change the levy.

6 And then we could work on how we get  
7 that money back to ratepayers. They could do it  
8 retroactively and credit rate payers and credit the  
9 company. Because anybody who believes that this  
10 somehow, we're going to tax Con Ed and those -- and  
11 the shareholders pay, no.

12 These are taxes that ratepayers pay,  
13 the shareholders they pay their taxes in a different  
14 way, but not through the bill. Ratepayers pay the  
15 taxes through the bill. It is just onerous, and it  
16 has to stop. If we were here today, saying the City  
17 of New York decides in their wisdom, they want to tax  
18 the Con Ed the way the city of Buffalo taxes National  
19 Grid.

20 We would be celebrating double digit  
21 rate decreases, decreases. So and the other aspect  
22 of this, which I find the most pernicious and I think  
23 is going to be really telling going forward. The  
24 company has been very upfront about their estimates  
25 on what it will cost the company in terms of capital

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2 spending to meet the C.L.C.P.A. mandates, been very  
3 upfront about that.

4 They indicated that the current  
5 electric cap -- CapX spending of nearly \$3 billion  
6 will need to go to \$10 billion. But we'll debate  
7 about that, and we'll see when it comes. But what  
8 won't change is that for every new dollar they spend  
9 on real property and CapX to expand to the electric  
10 system, there is an un -- boomerang of even greater  
11 revenue to the City of New York for that expensive --  
12 for that expense.

13 So as we clean up the environment, we  
14 put in this automatic enrichment to the City of New  
15 York. It is preposterous. We can stop. If we can't  
16 stop going -- looking back, we certainly can stop  
17 going forward and not try to penalize ratepayers for  
18 doing -- for merely paying their bill at -- and the  
19 company for meeting the mandates under our climate  
20 law.

21 It is -- it is beyond -- it is just  
22 makes me, it vexes me. And by the way, there is no  
23 utility in the United States of America that comes  
24 close to this tax levy, not even close. There is no  
25 utility in the State of New York, except for some

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2 water companies in Long Island that come even close  
3 to this sort of onerous, onerous tax levy.

4 And the irony is, when I asked  
5 personally members of the city council or members of  
6 the State legislature, how much do you think Con Ed  
7 the City of New York takes out of Con Ed every -- on  
8 your bill, oh, five percent, six percent.

9 When I tell them, it's like in excess  
10 of 25 percent, they go no, that's not possible. It  
11 absolutely is possible. It happens every day. And  
12 that's -- we could do something about that. And for  
13 those elected officials are deeply concerned and  
14 really concerned about affordability, then do  
15 something.

16 Also remember that utility bills are  
17 the least progressive way to raise money, you could  
18 even imagine. Poor folks, middle income folks, they  
19 pay the same tax that very wealthy people, no  
20 graduation to that. So the rent -- the income burden  
21 of these taxes is disproportionate the lower your  
22 income.

23 And I don't see any real change coming  
24 in this just blatantly hypocritical position,  
25 particularly of the city council, the City of New



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2 York, either they don't want to know, or they just  
3 don't want to tell you.

4 But I'm here to tell you people need  
5 to know. There has been much written, many  
6 editorials again this week in The New York Daily News  
7 about the ongoing need to reform the New York City  
8 tax, real property tax system.

9 And I will believe them, it absolutely  
10 needs to be done. However, know what they didn't  
11 mention in here, this, they didn't talk about utility  
12 taxes, as one of the things that need desperate  
13 reform. It is the thing that needs to happen and  
14 could happen tomorrow.

15 And to my good friends in the State  
16 legislature, if the city council won't do it, you  
17 can. You could change unilaterally that four-tier  
18 tax system. You could revoke it, you could improve  
19 it, you could modify it with or without home rule.

20 And I would beg them to do that.  
21 Another question I have, Tim, if I live in  
22 Westchester, do my bills reflect how much the City of  
23 New York taxes Con Ed?

24 MR. CANTY: Yes, they do.

25 COMMISSIONER HOWARD: So if I live in

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2           Westchester, one could say, if I pay my Con Ed bill  
3           every year, I'm in fact subsidizing the City of New  
4           York, because I'm paying more than I would have than  
5           if Con Ed have -- that all infrastructure was  
6           exclusively in New York -- in Westchester County,  
7           right?

8                   MR. CANTY:   That's correct.

9                   COMMISSIONER HOWARD:   But we bundle,  
10           it's all a bundled revenue requirement.

11                   MR. CANTY:   Yes.

12                   COMMISSIONER HOWARD:   So and I find it  
13           particularly ironic that, you know, my good friend  
14           the majority leader in the State Senate, who asked us  
15           not to do this rate increase, I do not believe that  
16           she's aware that her constituents subsidize the City  
17           of New York through their electric bill of all  
18           things.

19                   So again, I appreciate the hard work  
20           everybody did. This is much lower outcome than  
21           initially presented. But boy oh boy, we could do  
22           something about it, not people in this room. But  
23           people in the gray building across the street or in a  
24           big gray building in downtown Manhattan.

25                   They could do it tomorrow. And I just

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2 would like to see how they're going to respond.

3 Because I can guess to -- it's right in my heart. We  
4 will take this vote and the howls will be -- start  
5 coming from all over.

6 Well, I suggest that the wolves quiet  
7 down and maybe do something on their own volition and  
8 lower bills for people in the City of New York and  
9 Westchester, County. Thank you, Mr. Chairman.

10 A.L.J. LECAKES: Mr. Chairman, if I  
11 could just mention that we're a little confused about  
12 the letter that the Commissioners received from the  
13 city council because this -- the City of New York  
14 authorized their legal representatives in the rate  
15 case, to sign on to the Joint Proposal as a  
16 proponent.

17 So -- so they actually signed on to  
18 the Joint Proposal to support it, and then sent a  
19 letter to the Commissioners afterwards.

20 COMMISSIONER HOWARD: That's my  
21 observation as well, Judge.

22 A.L.J. LECAKES: Thank you.

23 CHAIR CHRISTIAN: Thank you for that  
24 bit of information.

25 MR. HOGAN: Can I -- can I just

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2 clarify, just to make sure I understand what the  
3 A.L.J. was asking? If that's the mayor's office and  
4 the city council. Would that be two different people  
5 signing and/or opposing?

6 A.L.J. LECAKES: The city attorneys  
7 that appear before us represent themselves as  
8 representing the City of New York --

9 MR. HOGAN: That's the mayor.

10 A.L.J. LECAKES: They don't make a  
11 difference between, you know, what part of the city  
12 government they're representing. And it's just a --  
13 it's just confusing to us.

14 MR. HOGAN: Okay. I've just -- it  
15 might be that the mayor's office approves. Bob,  
16 you're going to weigh in?

17 MR. ROSENTHAL: Yeah. The mayor's  
18 office is the one that signed the agreement, not the  
19 city council, it's a separate legal entity.

20 A.L.J. LECAKES: Well, the attorneys  
21 for, yeah, the law firm signed it. But yeah, thank  
22 you. That's just was interesting.

23 CHAIR CHRISTIAN: Thank you, everyone.  
24 Thank you, Commissioner. Commissioner Valesky.

25 COMMISSIONER VALESKY: Well, there --

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2 there are days when Commissioner Howard is a tough  
3 act to follow. And today is one of them. I can  
4 assure you of that. Well, Judge Costello, Judge  
5 Moreno, thank you very much for the process in which  
6 you led it and thanks to everyone on team D.P.S., who  
7 spent an awful lot of time, a lot of hours, I'm sure  
8 a lot of late nights on this case.

9 And I was intending on spending a  
10 little bit of time on the process itself, but it's  
11 been covered at length by many previous speakers.  
12 Well, I'll just say that that I'm -- that I'm happy  
13 to stand up and stand behind the process that you  
14 both led.

15 I think it has -- it has been a tried-  
16 and-true process for decades and I think it has  
17 worked again in this -- in this case. I did just  
18 want to ask two -- two questions, one specific to --  
19 to this case. And either Judge Costello or Judge  
20 Moreno or one of the program staff perhaps could  
21 answer.

22 So I have in the past commented on  
23 previous items in regard to the issue of alternative  
24 fuels. And this is -- this is addressed in this  
25 case, specifically in regard to renewable natural

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2 gas. And -- and I appreciate the -- the -- the  
3 attention that was given in this order to what the  
4 C.L.C.P.A. says about alternative fuels and what the  
5 C.L.C.P.A. does not say about alternative fuels.

6 And I emphasize that because  
7 throughout the entire Climate Action Council process,  
8 a similar back and forth took place. So I appreciate  
9 that -- that you have included that here. The  
10 question I have, though, is and I'll just go Judge  
11 Costello, to your comments that I just wanted to  
12 follow up on.

13 You had said in recommending that the  
14 Commission adopt the Joint Proposal, subject to the  
15 additional requirements regarding the filing in Con  
16 Ed's next rate case, of a comprehensive summary of  
17 charges appearing in customer bills and associated  
18 impacts and reporting requirement regarding in --  
19 interconnection projects to receive renewable natural  
20 gas.

21 I'm just -- I'm just curious as to --  
22 I support it. But I'm curious as to the addition of  
23 those additional reporting requirements. Was that  
24 included in the J.P., or was that outside of the  
25 J.P., and why did we -- why are we -- why are you

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2 recommending that we do those additional reporting  
3 requirements?

4 A.L.J. COSTELLO: It's outside of the  
5 J.P., and it's to -- so that we can get information  
6 on the G.H.G. emissions that might be effected  
7 through this interconnection process. So that's what  
8 we're trying to get information that is important to  
9 know about G.H.G. emissions.

10 COMMISSIONER VALESKY: Okay. I think  
11 that's again, a good add, it's important to add to  
12 the -- to the record and to the, again, the overall  
13 issue of how alternative fuels are addressed or not  
14 addressed. Not only here, but in other aspects of  
15 State government.

16 The only other question I have and  
17 perhaps, Chief Judge Lecakes, you could -- you could  
18 answer, it doesn't directly relate to this case.  
19 However, it does relate to the company that that  
20 brought this rate case.

21 I know that the company has also filed  
22 a steam rate case. And I'm just curious as to where,  
23 again, I know that doesn't impact anything we're  
24 doing today. But I'm just curious as to where that  
25 is in the process, since it is the same company?

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2 A.L.J. LECAKES: Right. So in the  
3 steam rate case, that appears or that is before our  
4 office, we have two Administrative Law Judges  
5 assigned to that case, the procedural steps that  
6 Judges Moreno and Judge Costello mentioned before  
7 about the testimony exchange has been completed in  
8 that case and they are now in settlement negotiations  
9 right now.

10 COMMISSIONER VALESKY: Okay. Okay.  
11 Thank you very much. Thank you, Chair.

12 CHAIR CHRISTIAN: Thank you. We'll go  
13 to Commissioner Maggiore.

14 COMMISSIONER MAGGIORE: Thank you very  
15 much. I have a series of questions that I prepared,  
16 which I'm going to get to. Before I do that though,  
17 I just -- I have to comment on what Commissioner  
18 Howard pointed out about the property tax.

19 I -- ah -- and he has made this point  
20 before, and I think he makes it in a very compelling  
21 way. And I -- I'm not going to question, I think  
22 this is not a question, it's a statement. I believe  
23 that New York City collects about \$2.7 billion from  
24 the property tax levied against Con Ed.

25 Which is roughly four times the size



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2           of the entire Albany County annual budget, which is  
3           where I'm from, Albany County.  And Commissioner  
4           Howard mentioned that it is a very regressive way to  
5           collect revenue for municipal services.

6                   And I'm not going to question the need  
7           for the revenue from municipal services.  But I would  
8           just point out that municipality has the ability to  
9           increase more progressive methods of collecting  
10          revenue.  The income tax is more progressive, a  
11          residential sales tax is more progressive, a sales  
12          tax is more progressive.

13                   Even user fees, depending on how  
14          they're applied, are more progressive.  And I know  
15          municipalities employ all these methods, New York  
16          City has a income tax, and it would be conceptually  
17          easy, maybe politically difficult to replace the  
18          extremely regressive property tax that's translated  
19          into rate -- inflated rates that have no regard for  
20          the ability to pay with a more progressive way of  
21          raising the same amount of revenue.

22                   So I just -- I wasn't prepared to say  
23          that beforehand, if I'm not being terribly  
24          articulate, I just would like to echo the point that  
25          Commissioner Howard made.  But with that, I'm going

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2 to pivot to a series of questions I have.

3 And let me just explain why I'm going  
4 to ask these questions. As the Chair indicated, in  
5 the beginning, there's an enormous number of people  
6 that participated in this process. Thousands of  
7 people commented. As the Chair did, I sat in on  
8 public statement hearings and heard heartfelt  
9 commentary by ratepayers who are going to be affected  
10 by the outcome of our vote today, and in a profound  
11 way that we can't minimize.

12 And the -- there's a lot of issues  
13 that have been raised both by parties that are very  
14 sophisticated and had input that really changed the  
15 ultimate outcome. But also ordinary citizens that  
16 are just concerned about either how much they're  
17 paying or what they're getting for what they're  
18 paying.

19 And I -- most of the questions I'm  
20 going to ask, the answers can be found either in the  
21 order or the J.P. But these documents necessarily  
22 complicated, they're necessarily dense. And I am  
23 going to highlight some of the many, many issues that  
24 were raised through the public participatory process,  
25 with it -- within -- within an assumption that more

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2 people are paying attention to this proceeding than  
3 pay attention to our typical proceedings.

4 So with that said, I'm going to first  
5 -- first start by asking a series of questions  
6 related to the C.L.C.P.A. And then, I'm going to  
7 pivot to some additional questions that are not  
8 related to the C.L.C.P.A.

9 Many of the concerns raised about this  
10 -- this J.P. had to do with natural gas and the  
11 replacement of gas pump prone pipes. So let me start  
12 by asking a sort of a very general question. Does  
13 the C.L.C.P.A. ban the use of natural gas either now  
14 or at a future date? Does it say anything about the  
15 use of natural gas per se? Does it require the  
16 reduction in the use of national -- natural gas? I'm  
17 asking specifically about the C.L.C.P.A.

18 A.L.J. COSTELLO: The C.L.C.P.A. does  
19 not have, you know, banned the use of natural gas.  
20 It requires that there be a certain level of G.H.G.  
21 reductions by certain dates, which will require a  
22 downsizing in the natural gas system, that's  
23 recognized.

24 But it's not stated in the C.L.C.P.A.  
25 itself and it's not, again, it's not banned by the

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2 C.L.C.P.A., the continued use of natural gas.

3 COMMISSIONER MAGGIORE: Thank you.

4 Some of the parties PULP, A.A.R.P. and others  
5 objected to E.A.M.s for the company doing what is  
6 legally obliged, under the C.L.C.P.A. How is that  
7 justified?

8 A.L.J. MORENO: It is basically not  
9 business as usual. It's going over and beyond. And  
10 just to use as an example, the E.E.B.E. E.A.M.,  
11 that's included in the J.P. would need to be in  
12 excess of the targets. In order for them to earn,  
13 they would have to exceed the targets of the N.E.N.Y.  
14 proceeding in order to earn in that instance.

15 MR. MANZ: And I -- I just would add  
16 to that. It's not only for that particular E.A.M.,  
17 it wouldn't only be exceeding those New Efficiency  
18 New York targets to earn the E.A.M. That's kind of  
19 just the -- the absolute minimum gateway to then look  
20 at the E.A.M. metric and see if the utility met that  
21 deeper energy savings metric.

22 COMMISSIONER MAGGIORE: Thank you.  
23 Okay. Some of the same commenters expressed concern  
24 that the J.P. does not require ConEd to apply for all  
25 available funding from the federal Infrastructure,

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2 Investment, and Jobs Act. Why is that?

3 A.L.J. COSTELLO: Well, we can't tell  
4 you why the Joint Proposal does or does not contain -  
5 - does not contain certain provisions because that is  
6 something that's the product of negotiations, which  
7 are confidential. But there's policy staff who may  
8 be able to expand on what the Department of Public  
9 Service is doing with respect to the utility  
10 applications for that funding and I'll reference to  
11 Jessica Waldorf.

12 MS. WALDORF: This is Jessica Waldorf.  
13 Several months ago, the Chair directed the utilities  
14 to aggressively apply for any available and  
15 applicable federal grants for the various projects  
16 that they may be undertaking.

17 We've since been tracking those  
18 utility applications and providing support, you know,  
19 where needed, but that remains an ongoing effort, and  
20 the department is actively, you know, making sure  
21 that the utilities are going after those funds.

22 So it's being tracked separately, more  
23 generically, across all utilities, not just to focus  
24 on anyone in particular.

25 COMMISSIONER MAGGIORE: Great. Okay.

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2 So going back to the -- the language of the  
3 C.L.C.P.A, does it say anything about the replacement  
4 of leak-prone pipes and what about the gas planning  
5 procedure, what -- or -- or other relevant State  
6 policies?

7 What -- what's our guidance or what  
8 are our legal requirements about gas-prone pipes,  
9 leak-prone pipes, I'm sorry?

10 MS. WALDORF: I'm happy to take that  
11 one as well. This is Jessica. The very similar to  
12 the response earlier on the C.L.C.P.A. not explicitly  
13 banning gas, the C.L.C.P.A. also doesn't explicitly  
14 mention measures like leak-prone pipes.

15 However, leak-prone pipes are a source  
16 of emissions reductions, and reducing leaks  
17 historically has been viewed as both having a safety  
18 and an environmental benefit. There certainly have  
19 been challenges that have been identified in terms of  
20 the need to downsize the gas system and reduce  
21 overall reliance on fossil fuels.

22 And so certainly, as the system is  
23 downsized, you know, sales will reduce, costs on the  
24 remaining customers will go up and so long as there  
25 are gas customers, we have to ensure that the safe --

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2 the system that is serving them is safe.

3 And so leak-prone pipe measures again,  
4 they do provide an environmental benefit, but  
5 importantly, provide a very, you know, needed envir -  
6 - safety and reliability benefit.

7 COMMISSIONER MAGGIORE: Okay. So does  
8 the company make money off of installing new -- new  
9 pipes or replacing the leak-prone pipes? And if so,  
10 is there a risk that the company will replace pipes  
11 that are not, in fact, leak-prone?

12 A.L.J. COSTELLO: Well, the draft  
13 order addresses this issue by, you know, explaining  
14 that there's not an incent -- as it's structured in  
15 the J.P., there's not an incentive for the company to  
16 pursue leak-prone pipe replacement instead of non-  
17 pipe alternative projects.

18 The J.P. specifically provides that  
19 leak-prone pipe retired through the implementation of  
20 a non-pipe alternative will count -- count towards  
21 the company's L.L.P. removal targets.

22 And it also contains cost recovery and  
23 incentive mechanisms that will ensure that the  
24 company does not have a financial incentive to  
25 replace leak-prone pipe instead of removing or

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2 abandoning -- abandoning such pipe and replacing it  
3 with a non-pipe alternative.

4 A.L.J. LECAKES: I also --

5 COMMISSIONER MAGGIORE: Okay --.

6 A.L.J. LECAKES: -- want to add that  
7 the Commission has, or the department has gas safety  
8 field staff that regularly audit the company's  
9 pipelines to make sure that the pipe that they're  
10 removing qualifies for that leak-prone pipe removal  
11 and replacement program. So we do monitor that.

12 COMMISSIONER MAGGIORE: Okay. So  
13 given the answers to the last two questions, why  
14 wouldn't we want to replace all leak-prone pipes?

15 MR. SPEICHER: Hi, I am Kevin  
16 Speicher. So as a general matter, the  
17 Commission's policy on the leak-prone pipe is to  
18 replace it as quickly as possible. But in doing  
19 that, we also have to keep in -- in mind the rate  
20 implications of that and for -- and -- and other  
21 safety factors.

22 And for that, I'd say, you know, for  
23 example, we would need to -- we want to make sure  
24 that the available workforce and qualified workforce  
25 does not outpace the -- the -- the need and -- and



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2 the replacement levels, because we don't want to  
3 essentially introduce another version of leak-prone  
4 pipe, just a newer version of leak-prone pipe.

5 COMMISSIONER MAGGIORE: Okay. Is it -  
6 - is it true that other -- I'm sorry. Was someone  
7 else going to say something? Okay. Is it true that  
8 other J.P.s for other utilities have specific  
9 reduction targets? And if -- if so, why not this  
10 one?

11 MR. SPEICHER: Again, this is Kevin  
12 Speicher. Yes, some of the other rate cases do have  
13 reduced, when you -- when you look at historical  
14 replacement levels, we have reduced those a little  
15 bit. But they are much further along in their  
16 replacement programs than -- than Con Edison is.

17 The distribution integrity management  
18 rule requires companies to mitigate risk and take  
19 preventative measures to mitigate risk. So with the  
20 other -- with the other companies that have a lower  
21 inventory of leak-prone pipe, there other things are  
22 raising to the top of the risk profile and that --  
23 those would be things like regulator stations and  
24 things like that right now.

25 Con Edison's -- the leak-prone pipe at

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2 Con Edison is a much higher risk than those concerns  
3 right now.

4 COMMISSIONER MAGGIORE: Okay. So some  
5 of the comments indicated or seemed to indicate, if I  
6 understood them, that an investments in fortifying  
7 and replacing leak-prone pipes are the, quote,  
8 primary driver of the proposed increase in -- in gas  
9 rates. Is this correct?

10 A.L.J. COSTELLO: That is not correct.  
11 As Department of Public Service staff explained, in  
12 rate year one, the primary rate driver in on the gas  
13 side is the significant decrease in forecasted gas  
14 demand between the last rate case and this rate case.  
15 And in rate years two and three, property taxes are  
16 the largest drivers.

17 COMMISSIONER MAGGIORE: Okay. That --  
18 I think you anticipated the -- my next question, so  
19 I'm going to skip it. Thank you. Does -- and you --  
20 you answered this several times, that the J.P. does  
21 not accept the gas rate plan that's submitted by  
22 ConEd. So I'm not going to ask that again.

23 I'm going to pivot from the gas and  
24 C.L.C.P.A. questions to a couple others. Many of the  
25 comments had some version of an objection to the high

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2 salaries of ConEd executives. Why are we -- why  
3 don't we require executive salaries to be lowered?

4 MR. HOGAN: So Commissioner, this is  
5 Jeff Hogan. Generally, we -- we review the executive  
6 compensation to check if it's set in a manner that's  
7 consistent with how such compensation is set  
8 throughout the industry. We want to make sure that  
9 it's high enough to attract personnel who have the  
10 experience and expertise to run a complex business,  
11 such as a large -- large utility in New York.

12 It's important to note that what is  
13 recovered in rates regarding executive compensation  
14 is just a fraction of the total compensation that is  
15 paid to executives of utilities. For instance, in  
16 the ConEd's situation here, it's 36 percent of  
17 executive compensation is being recovered from  
18 customers. The rest is being borne by shareholders.

19 The amount that's borne by  
20 shareholders is a very small piece of the revenue  
21 requirement. In this case, actually, I'll just say  
22 in ConEd in general, it's about 0.22 of 1 percent of  
23 the total revenue requirement is made up of executive  
24 compensation costs and that -- that trend is true  
25 Statewide.

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2 We -- we have about 40 or so percent  
3 each year of executive compensation picked up by  
4 ratepayers, the rest is borne by shareholders and  
5 that's a very, very small piece of the revenue  
6 requirement model. But we do need to make sure that  
7 they have the correct people for the job.

8 COMMISSIONER MAGGIORE: Okay. Thank  
9 you. Just a couple more questions. But along those  
10 lines, many of the comments that I've read or heard  
11 expressed a concern that shareholders are not  
12 carrying a fair rate -- fair weight as -- as compared  
13 to ratepayers.

14 Why do we care about shareholders'  
15 interests? Shouldn't they eat more of the expenses?  
16 Didn't they make a record profit from their  
17 investments in ConEd over the last year or recent  
18 years?

19 MR. HOGAN: So Commissioner, this is  
20 Jeff Hogan again. I'll attempt to answer that for  
21 you. Commissioner Burman spoke of one of the prongs  
22 that need to be considered is fairness to investors.  
23 It's important that we allow -- that we have returns  
24 for the shareholders for their investments that are  
25 sufficient to allow them to continue to raise capital

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2 at reasonable rates.

3 The utilities make significant  
4 investments each year in infrastructure. In New York  
5 total, each year, it's a couple billion dollars of  
6 investment has to be made. In order to make that --  
7 that level of investment, additional debt and equity  
8 needs to be issued every year.

9 If we want them to be able to continue  
10 to make the required investments in the system, for  
11 it to be safe and reliable, we need to make sure that  
12 they have continued access to that capital. That --  
13 that access comes about by having returns that are  
14 attractive to investors.

15 We don't want it to be higher than  
16 what other options are out there in utilities  
17 examples. But we need to be competitive with those.  
18 And there's been multiple Supreme Court rulings on  
19 this, you know, in terms of what's -- what's  
20 required.

21 So that's the -- what I would say in  
22 terms of why the return equities are what they are.  
23 I understand that the dollar amounts can be very  
24 large. You can hear headlines of a company making a  
25 billion dollars.

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2 That company though has invested --  
3 the shareholders of that company have invested \$12,  
4 \$13 billion in the system. That's how much they've -  
5 - they're -- out of pocket, let's say, \$1 billion  
6 return on \$12 or \$13 billion is 8 point something  
7 percent. It's -- that's below the nationwide  
8 average.

9 A lot of discussion has occurred here  
10 about the need to balance things, about compromise.  
11 We spend a lot of time in our rate cases trying to  
12 balance the need to provide a high enough level of  
13 return for investors with the impact it has on  
14 customers.

15 We've also spoken several times,  
16 Commissioners have spoken several times about the  
17 financial difficulties customers are experiencing,  
18 the rebounding it's still occurring. So we try and  
19 balance the need to have a return sufficient to  
20 attract capital with the impact it's going to have on  
21 customers.

22 New York authorize -- New York  
23 authorizes some of the lowest R.O.E.s in the State --  
24 I'm sorry, in the country. Generally, here we have a  
25 9.2, 9.6, 9.7 percent is common throughout the

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2 country at this moment. And -- and these returns are  
3 not guarantees, the -- the utilities need to perform  
4 well, they need to perform to their targets that are  
5 in the rate case in terms of budgets in order to earn  
6 that return.

7 If they fail to do so, they will under  
8 earn, they will earn less. If they happen to cut  
9 costs and are able to earn more, then there's --  
10 almost every single rate plan out there, except for  
11 N.F.G. having been a litigated one-year case  
12 mentioned earlier from 2016, all have earnings  
13 sharing mechanisms.

14 If the utilities are able to cut costs  
15 and are able to earn a little bit extra, at some  
16 point shareholder -- I'm sorry, customers start to  
17 share in those -- in -- in those savings and those  
18 lower costs eventually find their way through the --  
19 the discussion earlier about historic test year as a  
20 lower cost historic test year and customers benefit  
21 going forward.

22 So that's -- that's what I would --  
23 that's what I would state, I don't know if I've  
24 explained it well for you.

25 COMMISSIONER MAGGIORE: No, very well,

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2 thank you. I -- so while I -- you don't need to  
3 answer this, but I -- I wonder why an investor would  
4 invest in ConEd rather than one of those utilities at  
5 a State that allows for a higher R.O.E., but I'm not  
6 going to ask -- actually ask that as a question.

7 MR. HOGAN: Commissioner --

8 COMMISSIONER MAGGIORE: -- I'm going  
9 to ask one last -- yup, go ahead.

10 MR. HOGAN: I was just going to opine,  
11 I will say this can seem counterintuitive of why --  
12 why there are a lot of risk reductions. So when we  
13 talk about reconciliations, Tim Canty spoke earlier  
14 about reconcile property taxes, et cetera, we -- we  
15 do have some risk mitigation factors out there that  
16 help, but it's -- it's always another balancing act.

17 COMMISSIONER MAGGIORE: Okay, thank  
18 you. I -- I understand. So here's my final  
19 question. New York City in its official commentary  
20 asserts that impacts of rate increases are not clear  
21 in consideration of surcharges. We've discussed some  
22 of that earlier in the day.

23 We are directing ConEd to do so for  
24 the next rate case. Why can't we provide this  
25 information now?



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2 A.L.J. MORENO: Well, I think that the  
3 comment by New York City and also several other  
4 parties to the case were really in an interest in  
5 providing context to what the rate -- rate impact  
6 would be in light of the entire bill that a customer  
7 is responsible for.

8 So I think it would -- it may help in  
9 a future rate case to provide different parties with  
10 an opportunity to consider how rates will impact a  
11 total customer bill. Here, in light of the decision  
12 that the Commission will be making today, it may be  
13 of less use to those parties. And that's why we were  
14 looking at it prospectively.

15 COMMISSIONER MAGGIORE: Okay. Thank  
16 you very much. So these are the only issues that  
17 were raised through the participatory process, but I  
18 -- I -- I selected these because I thought that --  
19 that they were worth getting the types of concise  
20 clarifying answers that you -- you have provided  
21 today. I think that -- that's a -- of value to the  
22 public.

23 So I -- you know, to the extent that  
24 I'm not asking certain questions, I -- that's --  
25 that's why I focused on these. I -- I will stipulate

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2 an agreement with the point that my colleague to the  
3 left of me raised earlier about the -- the initial  
4 proposal coming from the utility.

5 But also as Commissioner Burman and  
6 Commissioner Howard indicated, I think once the rate  
7 case gets into your hands, there's -- there's not a  
8 whole lot that this agency does better than manages  
9 process and I'm continual -- continually impressed  
10 that it's a thorough, it's a participatory, it's a  
11 public process and, you know, it produces a result  
12 that no one likes.

13 And I've -- as I've said before,  
14 nobody, none of my colleagues nor do I want to raise  
15 rates, but I think that it's part of our job to  
16 choose among the -- the least onerous of -- of  
17 options. So we -- we have to pay for readiness. We  
18 have to pay -- pay for safety and reliability and we  
19 need to pay for the conversion to renewable energy  
20 sources.

21 So as -- as painful as this -- this  
22 rate is going to be, I'm going to support this --  
23 this item. Thank you.

24 CHAIR CHRISTIAN: Thank you,  
25 Commissioner. All right. And with that, we'll call

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2 for a vote. My vote is in favor of the  
3 recommendation to adopt the terms of the Joint  
4 Proposal as discussed. Commissioner Burman, how do  
5 you vote?

6 COMMISSIONER BURMAN: Yes.

7 CHAIR CHRISTIAN: Commissioner Alesi?

8 COMMISSIONER ALESI: Yes.

9 CHAIR CHRISTIAN: Commissioner

10 Edwards? Commissioner Edwards?

11 COMMISSIONER EDWARDS: No. I said no.

12 CHAIR CHRISTIAN: Thank you.

13 Commissioner Howard?

14 COMMISSIONER HOWARD: Yes.

15 CHAIR CHRISTIAN: Commissioner

16 Valesky?

17 COMMISSIONER VALESKY: Yes.

18 CHAIR CHRISTIAN: Commissioner

19 Maggiore?

20 COMMISSIONER MAGGIORE: Yes.

21 CHAIR CHRISTIAN: Okay. Votes are in.

22 The item is approved. Recommendations are adopted.

23 Thank you, Judges. Appreciate your support and help

24 in getting this through. Okay.

25 And with that, we'll now move to the

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2 consent agenda. Do any Commissioners wish to comment  
3 on, or recuse from voting on any of the items in the  
4 consent agenda? I'll begin with Commissioner Burman.

5 COMMISSIONER BURMAN: Item 163, which  
6 is a Section 70 to approve a lease for certain real  
7 property in the Village of Sag Harbor to 11 Bridge  
8 Street. I -- I am a no on this. The -- the standard  
9 here is, is it in the public interest?

10 Looking at the totality of the record,  
11 I see that the village, a number of officials have  
12 raised significant concerns with this. And the order  
13 seeks to give the approval to National Grid with two  
14 caveats which is one, don't do anything until after  
15 the summer season.

16 So do this come the fall, which seems  
17 to me to try to get around people who will clearly  
18 being noticed immediately that there might be a  
19 difference -- a different issue now. And then the  
20 second is the order says that the village and the  
21 parties in 11 Bridge Street should work together to  
22 try to figure out some solution.

23 To me, that seems backwards, I think,  
24 in the public interest, we have an obligation to try  
25 to not get involved in the issues ahead of time,

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2 could actually be written that it -- it's -- it's --  
3 it has to come after there is some perhaps viable  
4 resolution with the village.

5 Seems unfortunate that the village  
6 who's had a longstanding relationship on this issue  
7 with the company is now being left to have to deal  
8 with it from a zoning perspective and other. We've  
9 dealt with that before in this case because we have  
10 the discretion to decide if it's in the public  
11 interest.

12 I -- I don't believe for me that it is  
13 in the public interest and so I -- I vote no. Thank  
14 you.

15 CHAIR CHRISTIAN: Thank you.  
16 Commissioner Alesi?

17 COMMISSIONER ALESI: No, I have no  
18 comments. I'll vote yes on the whole agenda.

19 CHAIR CHRISTIAN: Thank you. Oh!  
20 Sorry, I don't think your mic -- or maybe you can  
21 move your mic a little closer. Oh! I don't think  
22 they heard you. Would you mind saying it again?

23 COMMISSIONER ALESI: To reiterate, no  
24 comments, I'll be voting on the whole agenda, as  
25 quickly as possible I might add.

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2 CHAIR CHRISTIAN: Thank you.

3 Commissioner Edwards?

4 COMMISSIONER EDWARDS: I have two  
5 items. I am a no on 163 and I am recusing on 368.

6 CHAIR CHRISTIAN: Thank you.

7 Commissioner Howard?

8 COMMISSIONER HOWARD: I am a no on  
9 item 368 consistent with my previous votes.

10 CHAIR CHRISTIAN: Thank you. Mr.  
11 Valesky.

12 COMMISSIONER VALESKY: No comments.

13 CHAIR CHRISTIAN: Thank you.

14 Commissioner Maggiore?

15 COMMISSIONER MAGGIORE: Yes, I -- I am  
16 going to comment on item 163. I -- I was, maybe a  
17 little on the bubble on this and my concern is that  
18 the village -- the village's opposition is not just  
19 the village opining on what they think we should do  
20 on a matter in our purview.

21 But what they're essentially saying,  
22 as I understand it, is that this decision runs up  
23 against what they're trying to do that is within  
24 their purview, having to do with land use and zoning.  
25 So the dilemma for me is -- has to do with the

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2 definition of public interest.

3 And my -- my review of -- of similar  
4 past cases is that we've consistently defined the  
5 public interest as it relates to the ratepayer rather  
6 than the host community in this case. And that --  
7 that is a very quantifiable assessment.

8 The -- in this case, the winning bid  
9 is -- redounds to the benefit of the ratepayer in a  
10 quantifiably better way than the -- the village's  
11 losing bid. Nonetheless, I -- very respectful of the  
12 role of the village government here and I -- I think  
13 that they have an enormous leverage from the tools  
14 that they have control over and that delay -- that  
15 delay until mid-September before the transfer takes  
16 effect should allow time for the village and the  
17 lessee to work out a fair and mutually beneficial  
18 arrangement.

19 So you know, Commissioner Burman  
20 articulated some of the same concerns that I have,  
21 but I'm falling on the other side and voting yes.  
22 Other than that, I have no other comments.

23 CHAIR CHRISTIAN: Thank you,  
24 Commissioner. So with that, we'll bring this to a  
25 vote. My vote is in favor of the recommendations on

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2 the consent agenda. Commissioner Burman, how do you  
3 vote?

4 COMMISSIONER BURMAN: I vote yes,  
5 except for item 163, I'm a no.

6 CHAIR CHRISTIAN: Thank you,  
7 Commissioner Alesi?

8 COMMISSIONER ALESI: Yes on all items.

9 CHAIR CHRISTIAN: Thank you,  
10 Commissioner Edwards?

11 COMMISSIONER EDWARDS: I am a yes on  
12 all items with the exception of 163 where I am a no,  
13 and 368 I am recusing.

14 CHAIR CHRISTIAN: Thank you,  
15 Commissioner Howard?

16 COMMISSIONER HOWARD: I'm a yes on all  
17 items except item 368 where I am a no.

18 CHAIR CHRISTIAN: Thank you,  
19 Commissioner Valesky?

20 COMMISSIONER VALESKY: Yes on all  
21 items.

22 CHAIR CHRISTIAN: Commissioner  
23 Maggiore?

24 COMMISSIONER MAGGIORE: Yes on all  
25 items.



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2 CHAIR CHRISTIAN: Thank you. The  
3 items are approved and the recommendations are  
4 adopted. Madam Secretary, is there anything else to  
5 come before us today?

6 SECRETARY PHILLIPS: There is nothing  
7 further.

8 CHAIR CHRISTIAN: And with that, I  
9 adjourn. Thank you, everyone. Have a good day.

10 (Off the record.)

11 (The meeting concluded at 03:27 p.m.)

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2 STATE OF NEW YORK

3 I, MONIQUE HINES, do hereby certify that the foregoing was  
4 reported by me, in the cause, at the time and place, as  
5 stated in the caption hereto, at Page 1 hereof; that the  
6 foregoing typewritten transcription consisting of pages 1  
7 through 209, is a true record of all proceedings had at  
8 the hearing.

9 IN WITNESS WHEREOF, I have hereunto  
10 subscribed my name, this the 24th day of July, 2023.

11

12

13 MONIQUE HINES, Reporter

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