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11/16/2023 - Monthly Meeting

STATE OF NEW YORK

PUBLIC SERVICE COMMISSION

MONTHLY MEETING

Thursday, November 16, 2023

10:32 a.m. until 12:54 p.m.

ESP, Building 3, 19th Floor Boardroom

Albany, New York

COMMISSIONERS:

RORY M. CHRISTIAN, Chair

COMMISSIONER DIANE X. BURMAN

COMMISSIONER JAMES S. ALESI

COMMISSIONER JOHN B. HOWARD

COMMISSIONER DAVID J. VALESKY

COMMISSIONER JOHN B. MAGGIORE

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2 (The meeting commenced at 10:32 a.m.)

3 CHAIR CHRISTIAN: Good morning,  
4 everyone. I call the 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 very much.  
10 Before we begin, I want to start our session today  
11 with a little public service announcement. A  
12 reminder to all New Yorkers of an income-eligible  
13 program known as the Home Energy Assistance Program  
14 or HEAP. The HEAP program provides financial support  
15 to income-eligible New Yorkers to help manage their  
16 heating and cooling needs.

17 If you're eligible for supplemental  
18 nutrition assistance, supplemental social security,  
19 or temporary assistance, I encourage you to apply for  
20 the HEAP program benefits which are available through  
21 -- OTA -- however, you heat your home via through  
22 oil, natural gas, electricity, propane, coal, or  
23 anything else, the program is there to help New  
24 Yorkers in need and I encourage you to seek it out  
25 and apply.

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2 We'll be putting information on how to  
3 do so through social media. And that'll be out later  
4 today, thank you. Now before moving to the agenda, I  
5 want to take a moment and conduct a roll call of  
6 Commissioners. When I call your name please confirm  
7 that you are present. Commissioner Diane Burman.

8 COMMISSIONER BURMAN: Present.

9 CHAIR CHRISTIAN: Commissioner James  
10 Alesi.

11 COMMISSIONER ALESI: Here.

12 CHAIR CHRISTIAN: Commissioner John  
13 Howard.

14 COMMISSIONER HOWARD: Here.

15 CHAIR CHRISTIAN: Commissioner David  
16 Valesky.

17 COMMISSIONER VALESKY: Here.

18 CHAIR CHRISTIAN: Commissioner John  
19 Maggiore.

20 COMMISSIONER MAGGIORE: Here.

21 CHAIR CHRISTIAN: Thank you. Now, I  
22 also wish to ask, do any Commissioners wish to recuse  
23 from voting on items 201, 202, or 301 on the regular  
24 agenda. Commissioner Burman.

25 COMMISSIONER BURMAN: I'm not

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2 recusing, thanks.

3 CHAIR CHRISTIAN: Thank you.

4 Commissioner Alesi.

5 COMMISSIONER ALESI: No on any of

6 them.

7 CHAIR CHRISTIAN: Thank you.

8 Commissioner Howard.

9 COMMISSIONER HOWARD: No.

10 CHAIR CHRISTIAN: Thank you.

11 Commissioner Valesky.

12 COMMISSIONER VALESKY: No recusals.

13 CHAIR CHRISTIAN: Thank you.

14 Commissioner Maggiore.

15 COMMISSIONER MAGGIORE: No.

16 CHAIR CHRISTIAN: Thank you. And I'll

17 go to our first item for discussion item 201 case 22-

18 S-0659, which addresses Consolidated Edison Steam

19 rates. It will be presented today by Administrative

20 Law Judge Erika Bergen, and Anthony Belsito, Nicola

21 Jones, Tim -- and Tim Canty are also available for

22 questions. Judge Bergen, please begin.

23 A.L.J. BERGEN: Thank you. Good

24 morning Chair Christian and Commissioners. Before

25 you is the draft order that adopts the joint proposal

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2 submitted in the Consolidated Edison Company of New  
3 York Steam rate case.

4 Con Edison initiated the case when it  
5 filed tariff leaves, testimony, and exhibits on  
6 November 22nd, 2022, seeking new rates for a one-year  
7 plan based on an asserted need for revenue increase  
8 as of the company's February 2023 update of  
9 approximately \$140.5 million.

10 On receiving the filing, Judge Belsito  
11 and I held a procedural conference and subsequently  
12 issued a procedural schedule that among other things  
13 set dates for the filing of responsive testimony by  
14 Staff and intervenors and the commencement of a  
15 litigated hearing to receive testimony and exhibits  
16 into the evidentiary record.

17 Responsive testimony was filed by four  
18 parties on March 24th, 2023. And the company filed  
19 its rebuttal on April 21st, 2023. Staff's  
20 recommendation for a one-year revenue increase was  
21 \$94.4 million, a \$46 million reduction of the  
22 company's initial request.

23 Staff, the company, and other parties  
24 thereafter entered settlement negotiations. The  
25 negotiations resulted in a joint proposal that was

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2 filed on September 1st, 2023. If adopted by the  
3 Commission, the joint proposal would establish a 3-  
4 year rate plan for the company that would cover the  
5 period of November 1st, 2023 through October 31st,  
6 2026.

7 The joint proposal is supported by the  
8 company, D.P.S. Staff, the City of New York, Consumer  
9 Power Advocates, and Natural Resources Defense  
10 Council and is not opposed by any party. The  
11 sponsoring parties proposed that the annual revenue  
12 increases be implemented on a levelized basis to  
13 avoid disproportionate bill impacts in any single  
14 rate year.

15 As such, the joint proposal includes  
16 levelized revenue increases of \$77.8 million in each  
17 rate year. The largest rate drivers are increasing  
18 property taxes, decreasing steam sales, depreciation  
19 expenses, and infrastructure spending to meet Climate  
20 Leadership and Community Protection Act or C.L.C.P.A.  
21 targets.

22 Most of these are outside the  
23 company's control. Another factor affecting the  
24 unlevelized rate year one increase is the fact that  
25 the company has not had increased rates since 2014.

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2 Since that time the company's rates have become stale  
3 and no longer accurately represent current costs and  
4 conditions.

5 Further, energy pol -- policies in the  
6 State have significantly changed since 2014,  
7 including the enactment of the C.L.C.P.A. as well as  
8 New York City's Local Law 97. The joint proposal  
9 contains terms that are intended to incentivize the  
10 company to file for approval of new rates in no more  
11 than 4 years to avoid the magnitude of increase  
12 necessitated by sale rates.

13 The revenue requirement increases  
14 proposed in the joint proposal compare favorably to  
15 the likely litigated result of a 1-year rate case.  
16 For instance, the rate year 1 unlevelized revenue  
17 requirement of \$110.3 million is about 20 percent  
18 lower than the company's initial request of \$140.5  
19 million.

20 The joint proposal requires the  
21 company to commence various decarbonization efforts  
22 which are designed to advance the State's C.L.C.P.A.  
23 goals as well as address New York City's Local Law  
24 97, which was adopted by the city in 2019 and  
25 requires large buildings to meet certain energy

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2 efficiency and greenhouse gas emission limits by  
3 2030.

4 Specifically, the joint proposal  
5 provides initial funding for two decarbonization  
6 projects. The joint proposal provides \$3 million for  
7 the company's first project, allowing it to conduct  
8 preliminary work on installing an industrial heat  
9 pump at the East River station.

10 As proposed, this heat pump would  
11 preheat steam boiler feedwater, or directly produce  
12 steam to reduce the amount of fossil fuel consumed to  
13 produce the steam. This would reduce greenhouse gas  
14 emissions associated with the East River station and  
15 increase boiler efficiency.

16 The joint proposal also provides half  
17 a million dollars for the company's second project,  
18 which would allow it to conduct preliminary work for  
19 a small district hot water loop system. This project  
20 would use waste condensate to provide hot water  
21 heating to neighboring buildings that currently use  
22 fuel oil or natural gas, thereby reducing emissions  
23 from those buildings.

24 The company can seek full funding for  
25 these projects and others through the proposed future



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2     decarbonization project approval mechanism.  
3     Petitions under this mechanism are required to  
4     include information regarding the design, location,  
5     usability, costs, and anticipated emissions  
6     reductions, which will help ensure that the  
7     decarbonization projects proposed are feasible, cost-  
8     effective, and will reasonably contribute to the  
9     achievement of C.L.C.P.A. goals.

10                   The joint proposal also requires the  
11     company to conduct two studies in furtherance of its  
12     decarbonization efforts. The steam decarbonization  
13     study and implementation plan will include a  
14     coordinated long-term analysis of pathways for  
15     achieving steam system decarbonization targets  
16     through 2050.

17                   The study must be filed with the  
18     secretary by December 31st, 2024. Under the adopted  
19     joint proposal, the company will also be required to  
20     develop a steam business development plan. This plan  
21     will identify obstacles to steam's competitiveness  
22     and make recommendations for addressing those  
23     obstacles.

24                   The joint proposal further includes  
25     provisions designed to provide assistance to Con-Ed's

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2 customers. First, within 90 days of the filing of  
3 the decarbonization study and implementation plan the  
4 company must convene a stakeholder meeting regarding  
5 the company's plan to request an adjustment to New  
6 York City's local law coefficient applicable to the  
7 steam system.

8 In addition, beginning in January  
9 2024, the company will offer customer building audits  
10 that will provide a detailed analysis of energy  
11 usage, identifying wasteful or excessive usage, and  
12 recommending efficiency upgrades or other ways for  
13 customers to reduce costs.

14 These audits will also include  
15 information regarding funding for efficiency  
16 improvements that are available to steam customers  
17 through the company, as well as through the New York  
18 State Energy Research and Development Authority.

19 The joint proposal also incl --  
20 requires the company to expand its outreach and  
21 education program, including website enhancements  
22 related to the conversion to steam service from oil  
23 or gas, as well as educational workshops. Finally,  
24 pursuant to the joint proposal, the company will file  
25 a marginal cost study for steam service by December

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2 31st, 2024.

3 This study, along with the steam  
4 business development plan and the steam  
5 decarbonization study will inform the development of  
6 a discounted steam rate to be considered by the  
7 Commission. This rate is anticipated to be available  
8 to disadvantaged communities' accounts, New York City  
9 Housing Authority buildings that convert to steam  
10 from oil or gas, as well as other new and converted  
11 buildings that meet certain criteria.

12 All these provisions are fully  
13 supported by the signatory parties represent  
14 significant and immediate steps towards the  
15 implementation of the C.L.C.P.A. In sum, in our  
16 view, the terms of the joint proposal will ensure  
17 that the company has sufficient funding to maintain  
18 the safety and reliability of the steam  
19 infrastructure used to serve the public and will  
20 provide the company the ability to earn a return on  
21 the value of that property, thereby ensuring  
22 financial soundness.

23 We further believe that the joint  
24 proposal produces just and reasonable rates that  
25 appropriately balance the interests of the ratepayers

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2 with the fairness to the investors and the long-term  
3 viability of the company, and is consistent with  
4 sound environmental, social, and economic policies of  
5 the Commission and the State.

6 This concludes our presentation, we  
7 are available for questions.

8 CHAIR CHRISTIAN: Thank you, Judge  
9 Bergen and Judge Belsito, I appreciate you bringing  
10 this to the Commission. I'm surprised that there was  
11 no opposition to this, but I'm pleased that the  
12 parties came together in agreement that this was the  
13 right pathway forward.

14 Also encouraged to see that so many of  
15 the various improvements regarding performance and  
16 other metrics that have been used in electric and gas  
17 rate cases for some time now have made their way into  
18 the steam one after all this time.

19 So that's a very pleasing  
20 accomplishment, I want to commend you and Staff for  
21 bringing that about. Also encouraged by all the  
22 various decarbonization measures that are included in  
23 this. And you know the goal of meeting Local Law 97  
24 New York City and the C.L.C.P.A., they're very  
25 intertwined. And the steam system's ability to

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2 support that is something I'm encouraged to see being  
3 considered and explored.

4 All said, I think your work here is  
5 commendable and I appreciate the effort. And I see  
6 this in the best interest of ratepayers and look  
7 forward to continued discussion and with that  
8 Commissioner Burman.

9 COMMISSIONER BURMAN: Thank you. Can  
10 you hear me?

11 CHAIR CHRISTIAN: Uh-huh.

12 COMMISSIONER BURMAN: Okay. Great.  
13 So I want to first thank Staff for all the hard work  
14 on this. And -- and sort of just reiterate that we  
15 have a broad mandate to ensure that consumers receive  
16 safe and reliable utility service at reasonable rate  
17 -- rates, and with the least adverse effects upon the  
18 environment.

19 And I recognize that we have an  
20 incredibly important and unique role in balancing the  
21 interests of the private needs of the shareholder to  
22 ensure continued investment in the services. And  
23 it's really important for us that we take a critical  
24 look at our mission that's really to the economic  
25 well-being of the State and its citizens, and that

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2 can't be overstated.

3 I did, as the Chair, do take a pause  
4 because there was no opposition. And I don't think  
5 that there's a reason for the opposition, but the  
6 fact that there was no opposition, you know,  
7 something sort of to look at and understand. I think  
8 it really goes to sort of the heart of the way this  
9 was approached.

10 But also, I think that there might be  
11 a disconnect in other rate cases where there's  
12 significant opposition that lessons can be sort of  
13 looked at here, in terms of some of the same issues  
14 were not opposed here, it's steam, so maybe there  
15 didn't seem to be a same sort of knee-jerk reaction  
16 to you know being sort of opposed to it.

17 Even though I think people need to  
18 understand sort of the mechanisms of where steam  
19 comes from. The largest rate drivers in this case,  
20 as A.L.J. said, are due to increases in property  
21 taxes, decreasing sales, depreciation expenses, and  
22 infrastructure spending to meet C.L.C.P.A. targets  
23 and really should be underscored that those are  
24 largely outside the company's control.

25 So we're looking at increases that are

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2 really necessary and outside of the company's  
3 control. For me, I -- I also I -- I really do like  
4 that we are having an incentive -- or focused on an  
5 incentive to bring the company back in that this last  
6 steam rate case was a long time ago.

7 And -- and so to the extent that we  
8 see that there was a need to address that because the  
9 rates were stale, I think is important just kind of  
10 looking forward in trying to figure out the right  
11 time for companies to be incentivized to come back  
12 in.

13 The other thing I think that is, I --  
14 I -- I like from this rate case is the weather  
15 normalization adjustment, and sort of my feeling is  
16 that this helps to ease the steam business  
17 volatility. And I wonder if the A.L.J. can speak a  
18 little bit to the weather normalization adjustment  
19 mechanism and why that's so important.

20 A.L.J. BELSITO: Steam sales are --  
21 are very dependent on the -- the weather and the  
22 outside temperature. So if there's a particularly  
23 warm winter, steam sales are likely to -- to be low  
24 and if there's a particularly cold winter, they're  
25 likely to be high, but the revenue requirement is

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2 relatively static for the company.

3 So they -- if they sell less steam in  
4 one period, they have to make up that -- the revenue  
5 for that period somewhere else, so rates could adjust  
6 or the adjustment can take place over a period of  
7 time, especially under the new fuel adjustment clause  
8 mechanisms.

9 But basically, what the weather  
10 normalization does is kind of smooth out that  
11 pattern. So it adjusts for variable weather and it  
12 keeps the revenue stream more static or more stable.  
13 So it's better for customers, so rates aren't going  
14 up and down quickly, and the revenue is more  
15 consistent for the company as well. So they can plan  
16 better.

17 COMMISSIONER BURMAN: Great. Thank  
18 you. Can you speak a little bit to the current  
19 status, there is no R.D.M. and just the current  
20 status of pending proceedings and proceedings related  
21 to the R.D.M. as it relates to Con-Ed and Steam.

22 MR. CANTY: So I believe it's been  
23 taken up --

24 COMMISSIONER BURMAN: My understanding  
25 --



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2 MR. CANTY: Go -- go on.

3 COMMISSIONER BURMAN: No, I was going  
4 to say my understanding is that -- I'm hearing  
5 feedback, I'll let you -- explain it and make sure  
6 we're all on the same page.

7 MR. CANTY: So the company did apply  
8 for an R.D.M. Energy Efficiency Case. But they've  
9 since withdrawn that request and so it's no longer an  
10 issue.

11 COMMISSIONER BURMAN: I -- I just want  
12 to make a specific -- sort of making sure that that's  
13 clear because there is another part in the order that  
14 talks about alternative methods for addressing the  
15 disincentive for the company to promote steam usage  
16 reductions through energy efficient programs. And  
17 those may be addressed when the company's energy  
18 efficiency pro -- proposals are considered.

19 My understanding is that the  
20 withdrawal of the separate R.D.M. proceeding, the  
21 petition doesn't mean that that was then put into the  
22 energy efficiency pending petition where we might  
23 take up other things. Just want to make clear what  
24 we're doing as it relates to the R.D.M.

25 MR. PADULA: I could take that

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2 Commissioner Burman. This is Marco Padula. Your --  
3 your understanding is correct that the filing that  
4 they made under the -- the energy efficiency  
5 proceeding only addresses steam energy efficiency  
6 programs.

7 COMMISSIONER BURMAN: Okay. Great.  
8 Thank you. The other issue just in terms of looking  
9 at it -- make sure I have the right page. In the  
10 order, we talked about that the Commission has  
11 already begun to implement the objectives of the  
12 C.L.C.P.A. through various proceedings, and we go  
13 into some detail on the -- the different programs as  
14 well as the New York State Climate Action Council  
15 final scoping plan.

16 I do just want to reiterate that that  
17 final scoping plan was it -- it -- it's not -- you  
18 know, a legal document to the extent that it's not  
19 final, we must follow that in fact, the Climate  
20 Action Council final scoping plan was putting forward  
21 recommendations that were then to go to the State  
22 Energy Board, Planning Board through its due  
23 deliberation, and then the agencies, and the  
24 legislature and others may -- may take some -- a look  
25 at that based on that.

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2 But that the final scoping plan itself  
3 is not the be all and end all and I just think that  
4 that's important, especially as we move forward. And  
5 as they seem to get embedded into orders and  
6 directives that people remember -- are reminded that  
7 that final scoping plan is not actually legally  
8 binding.

9 With that, I also am very appreciative  
10 of the focus on other opportunities for  
11 decarbonization, and the decarbonization projects  
12 that are -- are being done will be looked at and that  
13 there's an opportunity to come back to the Commission  
14 for further assessment and engagement on  
15 decarbonization opportunities.

16 And -- and I very much appreciate  
17 that, especially to the extent that the Commission as  
18 a whole will have the opportunity to weigh in. With  
19 that I will be voting for this, I think it's really  
20 well done. And I do think we have a lot of  
21 challenges especially with a lot of unknowns, as we  
22 go forward in a lot of our clean energy issues, as  
23 well as Local Law 97 et cetera.

24 So I just think that it's something  
25 for us to be mindful of that this is not a static

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2 process and we will need to look -- take a careful  
3 look, thank you.

4 CHAIR CHRISTIAN: Thank you.  
5 Commissioner Alesi.

6 COMMISSIONER ALESI: Thank you, Mr.  
7 Chairman. I'm going to be supporting this, there is  
8 no opposition to it that and that --

9 SECRETARY PHILLIPS: I'm sorry, we  
10 can't hear you.

11 COMMISSIONER HOWARD: I'm sorry, we  
12 can't hear you.

13 COMMISSIONER ALESI: Let's try this  
14 again. Can you hear me now?

15 COMMISSIONER HOWARD: Yes.

16 COMMISSIONER ALESI: No?

17 SECRETARY PHILLIPS: Yes.

18 COMMISSIONER HOWARD: Yes.

19 COMMISSIONER ALESI: You can. Good,  
20 I'll be supporting this, thank you.

21 CHAIR CHRISTIAN: Thank you.  
22 Commissioner Howard.

23 COMMISSIONER HOWARD: Thank you, Mr.  
24 Chairman. First of all, Judge, I personally want to  
25 congratulate you on a job well done, but I have a few

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2 questions. Approximately how many customers are on  
3 the Con-Ed Steam System?

4 MR. CANTY: There is approximately  
5 1600 customers on the steam system.

6 COMMISSIONER HOWARD: That represents  
7 10s of 100s of 1000s of square feet of -- of occupied  
8 space, right?

9 MR. CANTY: Yeah, the large commercial  
10 and apartment buildings in New York.

11 COMMISSIONER HOWARD: So these are  
12 including like the Empire State Building, Rockefeller  
13 Center, some of these -- some buildings that  
14 everybody in the whole world would know, right?

15 MR. CANTY: That's correct.

16 COMMISSIONER HOWARD: All right.  
17 Thank you. And this is in fact, the biggest steam  
18 system in the nation.

19 MR. CANTY: That's correct.

20 COMMISSIONER HOWARD: And if not the  
21 biggest among the globe. So again, we're talking  
22 about a big system that hardly anybody knows about  
23 because it just works. And it's sort of invisible.  
24 I'll get to my -- Tim will probably anticipate the  
25 next call. Question, what percentage of this

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2 increase is attributable to New York City taxes?

3 MR. CANTY: Approximately 45 percent  
4 of this increase is attributed to the increase in  
5 property taxes. There's also an I.O.U. from the  
6 customers from the last rate case. So if you factor  
7 that into property taxes, I think it's about 61  
8 percent of the increase.

9 COMMISSIONER HOWARD: 61 percent of an  
10 increase has nothing to do with the supply of energy  
11 to these 1600 customers, correct?

12 MR. CANTY: That's correct.

13 COMMISSIONER HOWARD: 61 percent.  
14 Tragically, the property tax issue which I have long  
15 decried in New York City is not going to be changed  
16 in the near term because of the very negative fiscal  
17 condition of the City of New York as it currently  
18 exists. The structural inequities that have been  
19 built into the New York City fisc just seemed to be  
20 ignored.

21 And while these customers appear to be  
22 among the premier tenants across the City of New  
23 York, the same arithmetic works to the poorest  
24 customer in the City of New York for the Con-Ed  
25 system. And again, it is really a tragedy. It is

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2 rarely written about, never written about.

3 And I have yet to see in my term here  
4 on the Commission, or prior to that any meaningful  
5 discussion of this issue among either this mayor, the  
6 previous mayor, or multiple mayors that I have  
7 observed over the last decades. Again, it -- it's  
8 just wildly unfair.

9 Additionally, I want to point out that  
10 the great promise of the thermal energy systems that  
11 are currently underway and under development in the  
12 State of New York, which have great promise for  
13 decarbonization of buildings and providing meaningful  
14 employment to displaced utility workers will also  
15 suffer this very negative impact of usury property  
16 taxes as part of that system.

17 That being said, I think we did the  
18 best, and -- and since there were no opposition to  
19 this particular item it -- it also belies the  
20 position that nobody paid attention. I know we did  
21 and I know, Staff, and the trial Staff and the -- and  
22 the judges certainly did. So all in all, I do give a  
23 job well done.

24 But again, as we look to particularly  
25 decarbonization efforts that required major capital

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2 investments in this steam system will also trigger  
3 new property tax events in the City of New York,  
4 which will just add to the spiral of very unfair  
5 taxation going forward. I wish there was a period on  
6 this day so I could not have to talk about this.

7 But I feel compelled each time an  
8 issue particularly coming up with Con-Ed comes along.  
9 But that being said good job, and I will be  
10 supporting this.

11 CHAIR CHRISTIAN: Thank you.  
12 Commissioner Valesky.

13 COMMISSIONER VALESKY: Thank you,  
14 Chair Christian. Thank you, Judge Bergen, Judge  
15 Belsito, and -- and to the program and technical  
16 Staff who worked on this -- on this item. I just  
17 have a question of -- of process, and then -- and  
18 then just a comment or two.

19 We -- this Commission approved the  
20 joint proposal from this company only 3 or 4 months  
21 ago as it relates to their electric and gas system.  
22 I'm just curious and I asked this I think it was  
23 Commissioner Burman, who mentioned earlier, the  
24 incentives for the company to come in more frequently  
25 as it relates to their steam system more frequently



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2 than once every 10 years or so which I guess is what  
3 we are now.

4 Would there be anything in this 3-year  
5 joint proposal and the one that we approved over the  
6 summer that would prohibit the company in 3 years  
7 from coming in and filing for electric, gas, and  
8 steam all in one -- in one filing. Would that be  
9 possible? And I -- I only asked a question based on  
10 --on again, a process order.

11 A.L.J. BERGEN: There's nothing in  
12 this case, in this proposed order that would prohibit  
13 them from doing that. I can't speak to what might  
14 have been in the other order for electric and gas --

15 COMMISSIONER VALESKY: Sure.

16 A.L.J. BERGEN: -- that would but I  
17 don't -- I'm not aware of anything that would  
18 prohibit that.

19 COMMISSIONER BERGEN: Okay. And  
20 again, that would be up to the company of course, I  
21 only asked just again based on -- on consolidation of  
22 -- of all of those. Okay, thank you. I have -- I  
23 have a feeling that the lack of -- of any opposition  
24 to this joint proposal part of that may have to do  
25 with the -- the good work done by Staff here and in

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2 the original filing from the company on  
3 decarbonization efforts.

4 I think that's certainly a -- a high  
5 point of this joint proposal. And finally, I would  
6 just as a takeaway, note that we are only half a  
7 month into the first-rate year of the 3-year rate  
8 term, we have not seen a rate case where we are not  
9 dealing with rate compression in -- in quite some  
10 time.

11 So I would hope that and I know it's  
12 not an apples-to-apples comparison when we -- when we  
13 look at all rate cases, but as we move forward, this  
14 would certainly be a model as a way to, you know, to  
15 move away as much as we can from the effects on  
16 ratepayers of rate compression, which we're obviously  
17 not seeing in this -- in this particular joint  
18 proposal.

19 So well done, thank you. And I plan  
20 on supporting the joint proposal in the order. Thank  
21 you.

22 CHAIRMAN CHRISTIAN: Thank you.  
23 Commissioner Maggiore?

24 COMMISSIONER MAGGIORE: Thank you.  
25 I'm also planning to vote yes. I don't have any

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2 questions. I did plan on noting the lack of  
3 opposition and the only thing I'd add to what's  
4 already been said was I concluded that that's because  
5 of this J.P. is a product of a transparent and  
6 participatory process.

7 So I think that this is, you know, a  
8 good product based on good work, not just technical  
9 work, but also engagement with the stakeholders. So  
10 you know, I -- I am very impressed. So I plan to  
11 vote yes and -- and that's all I have to say. Thank  
12 you.

13 A.L.J. LECAKES: Mr. Chairman, if I  
14 may just clarify a little bit on the response to  
15 Commissioner Valesky's question about the filing  
16 together I do want to note that while the company is  
17 certainly able to file all three together, and  
18 actually has in the past. The terms on the joint  
19 proposal and rate years are different for the  
20 electric and gas systems than they are for the steam  
21 system.

22 Steam system runs -- that rate year  
23 runs from November 1st to October 31st each year.  
24 Electric and gas, Ms. Jones?

25 MS. JONES: I'm sorry, yes, they're

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2 concluding -- they're going towards the end of the  
3 first rate year, so.

4 SECRETARY PHILLIPS: I'm sorry.  
5 Nicola -- I'm sorry, we couldn't hear the first part  
6 of what Nicola said. Could you please repeat it?

7 MS. JONES: Sure. I just want to  
8 test, can you hear me now?

9 SECRETARY PHILLIPS: Yes.

10 MS. JONES: I said for the electric  
11 and gas rate case for Con-Edison it runs on the  
12 calendar year basis, so from January to December. So  
13 for their rate term, they're going towards the end of  
14 their first rate year.

15 A.L.J. LECAKES: So essentially what  
16 that means is while there's no legal prohibition  
17 against them filing all three businesses together,  
18 gas and electric would essentially be in a 10-month-  
19 stay-out situation at the end of their rate plan if  
20 they were to wait until steam -- until they were  
21 allowed to file steam based on their agreement here  
22 to stay out until October 31st, 2026.

23 COMMISSIONER VALESKY: Thank you,  
24 Judge Lecakes and Nicola for that clarification. I  
25 appreciate that.

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2 CHAIRMAN CHRISTIAN: Okay. With that,  
3 I'll bring this item to vote. My vote is in favor of  
4 the recommendation to adopt the terms of the joint  
5 proposal as discussed. Commissioner Burman, how do  
6 you vote?

7 COMMISSIONER BURMAN: Yes.

8 CHAIRMAN CHRISTIAN: Commissioner  
9 Alesi?

10 COMMISSIONER ALESI: Yes.

11 CHAIRMAN CHRISTIAN: Commissioner  
12 Howard?

13 COMMISSIONER HOWARD: Yes.

14 CHAIRMAN CHRISTIAN: Commissioner  
15 Valesky?

16 COMMISSIONER VALESKY: Yes.

17 CHAIRMAN CHRISTIAN: Commissioner  
18 Maggiore?

19 COMMISSIONER MAGGIORE: Yes.

20 CHAIRMAN CHRISTIAN: Thank you all.

21 The items approved and recommendations are adopted.

22 Now, moving to our second item for discussion.

23 Again, thank you everyone. Our second item for

24 discussion today, item 202 case 22-M-0314, which

25 addresses utilities' diversity, equity, and inclusion

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2 plans that will be presented today by Peter Lavery.  
3 Jeff Hogan is also available for questions. Mr.  
4 Lavery, when you're ready, please begin.

5 MR. LAVERY: Okay. Good morning,  
6 Chair Christian and Commissioners. My name is Peter  
7 Lavery, and I am in the management and operations  
8 audit section of the Department's Office of  
9 Accounting, Audits, and Finance.

10 I'm here today to present the draft  
11 order releasing the assessment and establishing  
12 continued processes in the proceeding to review  
13 utilities' diversity, equity, and inclusion  
14 practices. Could we cue up the slideshow  
15 presentation to accompany, please?

16 CHAIRMAN CHRISTIAN: Peter, one  
17 moment, please. I'm wondering if we can get a little  
18 more volume on your mic.

19 MR. LAVERY: Yeah, please. Sure  
20 thing. Is that a little better for you, Chair?

21 CHAIRMAN CHRISTIAN: I think so, yeah.  
22 Thank you.

23 MR. LAVERY: Okay. Throughout the  
24 discussion this morning, I will refer to diversity,  
25 equity, and inclusion as D.E.I. Thank you, next

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2 slide, please.

3 As described in the Commission's June,  
4 2022 order initiating the proceeding, the goals of  
5 this proceeding are to enhance utilities' existing  
6 D.E.I. efforts and ensure the utilities can learn  
7 from their peers and stakeholder input. Next slide,  
8 please.

9 The June 22 order required electric,  
10 gas, and water utilities with 100 employees or more  
11 to develop and file D.E.I. plans. The June 22 order  
12 also directed Staff to host a working group effort  
13 for the subject utilities to aid in the development  
14 of those plans and to engage an independent third-  
15 party consultant to assist in facilitating the  
16 working group and assessing the utility D.E.I. plans.  
17 Next slide, please.

18 In August of 2022, Staff issued a  
19 request for proposals to engage an independent  
20 consultant for these efforts. In September, the  
21 subject utilities submitted their initial D.E.I.  
22 plans. And in October, Staff selected F.T.I.  
23 consulting to assist these efforts.

24 Looking forward to January of 2023,  
25 F.T.I. provided its assessment of the initial D.E.I.

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2 plans, which included feedback to each util --  
3 utility identifying improvement opportunities for  
4 their re -- respective plans. And this feedback was  
5 also used to inform topic areas for the working group  
6 sessions.

7 The working groups commenced in  
8 February of 2023 and concluded in April. These were  
9 collaborative sessions to share current strategies,  
10 efforts, and future goals, as well as to identify  
11 best practices, areas of success, and current  
12 challenges. The subject utilities' participation was  
13 excellent throughout.

14 They consistently engaged in open and  
15 candid conversations about their efforts and  
16 challenges. Many utilities offered some helpful  
17 insights and resources to assist others'  
18 implementation strategies. And F.T.I.'s assistance  
19 was also first-rate. Its team offered helpful  
20 insights and resources to engage and support the  
21 discussions.

22 Following the working group effort,  
23 the subject utilities submitted revised D.E.I. plans  
24 that were informed by F.T.I.'s initial evaluation, as  
25 well as the working group discussions. In May of



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2 2023, F.T.I. provided parties with its final  
3 assessment, which summarizes the progress achieved  
4 from the initial to revised plans for each utility,  
5 and includes updates to the respective maturity  
6 levels of each utility's D.E.I. programs and  
7 strategies.

8 It also outlines areas of focus for  
9 each utility as their plans and strategies will  
10 evolve. Next slide, please. The draft order  
11 provides the following summary of F.T.I.'s  
12 assessment. F.T.I. led a structured approach to  
13 understand the current -- current maturity levels of  
14 D.E.I. programs and assess the plans for each  
15 utility.

16 The consultant conducted surveys and  
17 interviews of utility stakeholders to explore plan  
18 details and to test each organization's self-  
19 awareness of their D.E.I. progress. Move to the next  
20 slide, please. F.T.I. used a quadrant model to  
21 illustrate the effect -- effectiveness of each  
22 utility's D.E.I. plan.

23 F.T.I. examined how clear each utility  
24 articulated its ambitions in its plan, represented on  
25 the aspiration axis, as well as how the utility

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2 specified robust near and medium-term action steps in  
3 pursuit of its strategies. And that's shown here on  
4 the action axis. You could go to the next slide.

5 The consultant found that the subject  
6 utilities' revised D.E.I. plans were much clearer  
7 than the initial plans overall. For most utilities,  
8 the revised plans clarified their D.E.I. ambitions in  
9 line with their business strategies and included more  
10 explicit act -- action steps, such as measurable  
11 goals and prioritized actions.

12 The utility progress is captured in  
13 F.T.I.'s revised quadrant chart. As shown here, the  
14 majority of the subject utilities made progress  
15 toward the upper right corner of this chart, which  
16 indicates each of their progress toward the target in  
17 the stakeholder value quadrant.

18 F.T.I. noted that utilities initially  
19 assessed to be in the foundational or grassroots  
20 quadrants showed the most improvement between their  
21 initial and revised D.E.I. plan submissions. Next  
22 slide, please.

23 In interpreting D.E.I. maturity  
24 levels, F.T.I. assessed the subject utilities across  
25 15 global diversity, equity, and inclusion

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2 benchmarks. Most of the subject utilities received  
3 proactive ratings across various global benchmark  
4 categories.

5 F.T.I. concluded that the utilities  
6 have a high awareness of the value of D.E.I. and have  
7 plans to make systemic changes across their  
8 organizations. The consultant also acknowledged best  
9 practices at Con-Edison, Orange and Rockland, as well  
10 as the National Grid Companies across many of these  
11 global benchmark categories.

12 F.T.I. recognized these companies  
13 corporate vision and leadership as best practices, as  
14 the companies have embedded D.E.I. in their  
15 organizational cultures as a core value, and their  
16 strat -- D.E.I. strategies are an integral part of  
17 their overall organizational strategies.

18 Regarding workforce management  
19 activities, F.T.I. also found these companies ensure  
20 that D.E.I. is integrated throughout their  
21 recruitment, professional development, advancement,  
22 and retention activities.

23 F.T.I. found Con-Edison and Orange and  
24 Rockland are leveraging analytics to assess progress  
25 and establish accountability throughout their

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2 organizations. F.T.I. also acknowledged that  
3 National Grid's communications are clear,  
4 transparent, and easily accessible for internal and  
5 external audiences alike.

6 Concerning utility outreach  
7 activities, the consultant noted that most of the  
8 subject utilities are actively involved in their  
9 respective communities. F.T.I. acknowledged National  
10 Grid's Project C, which outlines the company's New  
11 York Community Investment Initiatives as an exemplary  
12 program for community impact.

13 Similarly, F.T.I. recognized Con-  
14 Edison and Orange and Rockland for their social  
15 responsibility engagement by leveraging strategic  
16 partnerships across organizations throughout their  
17 service territory at numeral -- numerous externalized  
18 institutions. If you could go to the next slide,  
19 please?

20 The draft order also highlights some  
21 areas of focus for the utilities to consider as they  
22 progress along their D.E.I. journeys. The consultant  
23 emphasized that middle management buy-in is key for  
24 each utility advancement of D.E.I. initiatives. So  
25 the plans should include activities to inform,

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2 educate, and engage middle management to increase  
3 support of these strategies.

4 F.T.I. noted that it was clear the  
5 utilities who have enjoyed the most success have  
6 found ways to engage managers and supervisors as  
7 advocates and champions. The consultant also  
8 recommended that the subject utilities address  
9 specificity gaps in their respective plans.

10 As their D.E.I. plans evolve, the  
11 subject utilities should ensure the plans contain a  
12 clear vision for D.E.I., including locally adopted  
13 priorities, near-term and medium-term activities with  
14 timelines and measurable and localized goals. You  
15 can go to the next slide, thank you.

16 The draft order before you  
17 acknowledges the excellent participation of the  
18 subject utilities throughout the working group  
19 efforts, as well as the progress achieved on the  
20 revisions to their respective D.E.I. plans. The  
21 draft order acknowledges F.T.I.'s excellent --  
22 excellence in assisting the facilitation of the  
23 working groups.

24 And given the success of the working  
25 group effort and to ensure continued utility progress

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2 in these areas, the draft order proposes to continue  
3 these efforts with F.T.I. and the subject utilities  
4 until 2025. You can go to the next slide, please.

5 The continued working group effort  
6 would recommence in the first quarter of 2024. The  
7 multi-party contract for this engagement contains an  
8 extension provision that allows for continued work by  
9 the parties on matters related to this engagement for  
10 up to three years.

11 So the F.T.I., the Department and the  
12 subject utilities will hold quarterly working group  
13 sessions and will work together to determine the  
14 timing of each session. The working group will have  
15 a programmatic structure overlaid with a responsive  
16 approach to allow flexibility to incorporate emerging  
17 utility challenges, D.E.I. trends, as well as current  
18 events.

19 It shall include air --areas of focus  
20 outlined in F.T.I.'s final assessment, including  
21 strategies for eng -- engaging leadership on D.E.I.  
22 initiatives, establishing and implementing D.E.I.  
23 metrics, as well as internal and external utility  
24 communications.

25 In addition, the draft order

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2 highlights that this continued working group effort  
3 should consider supplier diversity programs and  
4 procurement in the ongoing sessions. It encourages  
5 the subject utilities to identify additional topics  
6 beyond those noted in F.T.I.'s assessment and the  
7 draft order.

8 At the conclusion of the working group  
9 effort, the Commission will address the progress  
10 achieved, targeting the April 2025 session. The  
11 Commission will consider the necessity of the working  
12 group -- of continuing the working group effort  
13 rather, or additional steps to further the subject  
14 utilities' D.E.I. efforts.

15 This concludes my overview. I would  
16 like to thank the Department Staff team members that  
17 assisted the working group efforts and contributed to  
18 the development of this draft order. We are now  
19 available to answer any questions that the Commission  
20 may have.

21 CHAIRMAN CHRISTIAN: Thank you, Peter.  
22 I appreciate the presentation and the prolific views  
23 of excellence. I don't think we've had a proceeding  
24 to characterize that way as -- by so many in a while.  
25 So I'm encouraged and pleased to see the outcome of

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2 this.

3 I remember when we started this June  
4 last year, we originally envisioned this being a one-  
5 year initiative, so to see it expand in the matter as  
6 described in this order, it's very pleasing and it's  
7 very encouraging.

8 I know utilities face unprecedented  
9 array of challenges, a broad spectrum in scope and  
10 scale, everything from the need to transition to more  
11 efficient fuels to also responding to increasing  
12 array of disasters and threats.

13 But at the end of the day, it's that  
14 workforce, the utility workforce, that's going to  
15 confront these challenges head on. It goes without  
16 saying, they have the necessary skills and expertise,  
17 but the utility workforce should also reflect the  
18 diversity of the communities that they serve.

19 And I think through this process,  
20 we're one step closer towards identifying  
21 opportunities to achieve that level of diversity.  
22 And so I'm very encouraged by the work, pleased by  
23 the engagement you described, both by utilities, and  
24 F.T.I., and Staff.

25 And I'm very encouraged by the



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2 partnership and collective action exhibited by  
3 utilities and the resulting individual progress that  
4 they've each made in having their D.E.I. plans. So  
5 thank you for your hard work in putting this  
6 together, both through the working group and putting  
7 this order to make it something we do on an ongoing  
8 basis. Thank you for that. Commissioner Burman?

9 COMMISSIONER BURMAN: Thank you. I  
10 want to first thank Staff for their hard work. I  
11 want to thank the utilities who have shown clear  
12 engagement. And I want to thank the consultant who  
13 filled a discreet role and brought a needed outside  
14 expertise to the process.

15 This was an iterative process focused  
16 on continuous improvement. I believe we are stronger  
17 and better because of our diversity, not in spite of  
18 it. And sensible D.E.I. policies implemented with  
19 fidelity help to ensure people feel valued, accepted,  
20 and respected.

21 I am very glad that this is going to  
22 be coming back to us as a Commission body. It's  
23 important to show our leadership commitment to that.  
24 One of the challenges and trends that F.T.I.  
25 showcased was that it's clear that utilities who have

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2 enjoyed the most D.E.I. success have found ways to  
3 engage leaders as advocates and champions.

4 So for us as Commissioners, we have a  
5 role to play also. D.E.I. culture, as you said, is  
6 embedded in the entities as core values. When that  
7 is -- when your culture is embedded as a core value,  
8 it helps to move forward.

9 For me, I'd also like to see when we  
10 start this next process engaging, again, with  
11 stakeholders and the groups that our own Staff chair  
12 of our own new D.E.I. committee is included in that,  
13 that the chair can also bring one or two people from  
14 the committee because I think that that will help go  
15 a long way in ensuring that we are part helping our  
16 Staff in ideas and thoughts that might be able to  
17 make our D.E.I. culture that much better.

18 With that, I'm going to be -- I'm  
19 voting for this. And I thank you.

20 CHAIRMAN CHRISTIAN: Thank you.  
21 Commissioner Alesi.

22 COMMISSIONER ALESI: Thank you, Mr.  
23 Chairman. This can't do anything but good for us  
24 here, and for the businesses, and the government, and  
25 governmental entities that embrace this. And in --

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2 due to the fact that there are actually two states in  
3 the United States of America that have actually  
4 outlawed any efforts of D.E.I., I wholeheartedly  
5 embraced this effort.

6 CHAIRMAN CHRISTIAN: Thank you.  
7 Commissioner Howard?

8 COMMISSIONER HOWARD: Thank you, Mr.  
9 Chairman. Again, I'd like to praise this work here.  
10 And -- but on a going forward basis in there I would  
11 make a few suggestions. The utilities collective  
12 bargaining agreements and I believe could be a  
13 foundational component of these -- our D.E.I. efforts  
14 and the utilities' D.E.I. efforts.

15 Each one of the investor-owned  
16 utilities described have reasonably good labor  
17 management committees that meet on a regular basis.  
18 And -- and particularly as we go through  
19 technological changes and increased electrification  
20 that -- that partnership on an ongoing basis is -- it  
21 will be absolutely essential.

22 Additionally, each one of these  
23 utilities, certainly the energy utilities, all  
24 participate in federally approved apprenticeship  
25 programs, which again provide a real and meaningful

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2 opportunity to increase certainly the diversity of --  
3 of the workforce.

4 And on top of that, we need a more  
5 diverse workforce because utilities, particularly  
6 those Upstate, have appeared to have a very difficult  
7 time recruiting new -- new workers, particularly  
8 those dealing -- and with the more technical aspects,  
9 line mechanics, linemen and whatever.

10 Additionally, as part of this and has  
11 done is moving more as much as we can to recruiting  
12 the veterans community, many of whom who already do  
13 participate a higher level of utility workforce than  
14 many other businesses across the State.

15 And again, I think there is real  
16 opportunity, but we need to talk, you know, go down  
17 to the guy, the men and women who do the work and  
18 what they see is necessary in terms of their own  
19 workforce and their peers.

20 Again, I would also suggest that as we  
21 go forward, because it does make allusion to this,  
22 that the same process of D.E.I. analysis go to the  
23 contracting bodies that these utilities do use.  
24 Again, as part of the energy transition, much of the  
25 work will be done by third-party contractors on

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2 behalf of utilities.

3 And again, I would hope that they  
4 would be required going forward in contracts to have  
5 that same level of D.E.I. emphasis as the utilities  
6 do themselves. One thing that I think also going  
7 forward, and while it's not directly part of our  
8 charge, that this -- two State- owned utilities, the  
9 New York Power Authority and the Long Island Power  
10 Authority, should -- we should try to find a way to  
11 have them participate with this D.E.I. initiative as  
12 well.

13 While not directly under the  
14 jurisdiction of this -- this body, completely  
15 certainly dealing with workforce issues and the like,  
16 I do believe that they, you know, should be brought  
17 along because the issues faced by the investor-owned  
18 utilities is identical to our State-owned utilities  
19 as well.

20 I think that would also go to some of  
21 our major -- well, we have a couple of relatively  
22 small water companies involved in this, relatively  
23 small is that -- that same thought goes into our  
24 municipal water supply stuff because they are already  
25 subject to a variety of minority and woman-owned

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2 business standards that have yet to become statutory  
3 requirements of the utilities.

4 And again, I think they could provide  
5 some insight going forward, but again, good work.  
6 But again, the more we can, as the consultant start  
7 with the ground up and not the top down, I think that  
8 it will be greatly benefits.

9 And I think putting the unions right  
10 at the table would be a great first start. So thank  
11 you very much.

12 CHAIRMAN CHRISTIAN: Thank you.  
13 Commissioner Valesky?

14 COMMISSIONER VALESKY: Thank you,  
15 Peter. Thank you, Jeff, and to other team members  
16 for the good work. I don't have any questions. I do  
17 want to just make a very brief comment that I do  
18 appreciate the flexibility on the part of Staff in  
19 bringing the Commission itself back into this  
20 process.

21 I think, Peter, you indicated the  
22 target would be around April of 2025 so that we can  
23 have a direct role in continuing to monitor the  
24 progress that you all are making. So appreciate that  
25 change in the draft order, and I look forward to

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2 supporting it. Thank you.

3 CHAIRMAN CHRISTIAN: Thank you.

4 Commissioner Maggiore?

5 COMMISSIONER MAGGIORE: Thank you. I  
6 really don't have anything to add. I think this is  
7 an encouraging report. I would just -- my head is  
8 still spinning over Commissioner Alesi reminding us  
9 that some states have banned this type of work.

10 You know, I was born in the '60s. I  
11 thought we were -- we had left that decade behind,  
12 but it's amazing. But this is good work. This is  
13 important work, and I commend -- I commend you for  
14 what -- what you brought before us today. Thank you.

15 CHAIRMAN CHRISTIAN: Thank you. I  
16 will call to vote. My vote is in favor of the  
17 recommendation to accept and make public the  
18 consultant's report as discussed. Commissioner  
19 Burman, how do you vote?

20 COMMISSIONER BURMAN: Yes.

21 CHAIRMAN CHRISTIAN: Commissioner  
22 Alesi?

23 COMMISSIONER ALESI: Yes.

24 CHAIRMAN CHRISTIAN: Commissioner  
25 Howard?

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2 COMMISSIONER HOWARD: Yes.

3 CHAIRMAN CHRISTIAN: Commissioner

4 Valesky?

5 COMMISSIONER VALESKY: Yes.

6 CHAIRMAN CHRISTIAN: Commissioner

7 Maggiore?

8 COMMISSIONER MAGGIORE: Yes.

9 CHAIRMAN CHRISTIAN: The item is  
10 approved and recommendation is adopted. Thank you  
11 everyone. We now move to our third item for  
12 discussion today. Item 301, case 18-E-0138. As it  
13 relates to the E.V. make-ready midpoint review. It  
14 will be presented today by Janet Roberton, Zeryai  
15 Hagos, and Stephanie McDermott are also available for  
16 questions. Ms. Roberton, when you're ready.

17 MS. ROBERTON: Thank you. Good  
18 morning Chair Christian and Commissioners. My name's  
19 Jen Roberton, and I am the transportation lead in the  
20 Office of Markets and Innovation. I am here to  
21 present the order approving midpoint review  
22 whitepapers recommendations with modifications which  
23 marks the culmination of the midpoint review of the  
24 make-ready program under case number 18-E-0138.

25 The make-ready program was authorized



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2           in July 16th, 2020, and the order establishing  
3           electric vehicle infrastructure make-ready program  
4           and other programs, also known as the make-ready  
5           order. The order authorized a \$701 million investment  
6           in clean transportation, primarily focused on  
7           building the electrical infrastructure necessary to  
8           provide adequate charging access to New Yorkers.

9                   The program is built around analysis  
10           produced by the National Renewable Energy Laboratory,  
11           or NREL, E.V.I-Pro Lite Tool, which predicted the  
12           number of chargers necessary to support 850,000  
13           electric vehicles, or E.V.s by 2025.

14                   The make-ready incentives provide  
15           funding for the electrical work to make a site ready  
16           for E.V. charging. The make-ready program has a  
17           three-tiered incentive structure with up to 50  
18           percent of eligible costs covered as plugs are  
19           privately accessible only, and/or use proprietary  
20           technology, up to 90 percent of eligible costs  
21           covered if plugs are publicly accessible and use non-  
22           proprietary technology, as well as an enhanced  
23           incentive up to 100 percent of eligible costs covered  
24           if plugs are serve in disadvantaged communities.

25                   Additionally, the order approved a

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2 suite of programs tailored towards the mobility needs  
3 of disadvantaged communities, including having 20  
4 percent of the make-ready budget dedicated to  
5 chargers in disadvantaged communities, a \$96 million  
6 carve out, as well as \$10 million in make-ready  
7 support for public transit depots, and a \$24 million  
8 pilot program for utility site make-ready for the  
9 medium and heavy duty make-ready pilot, nine million  
10 of which was dedicated in the Con-Edison rate case.

11 Additionally, the make-ready order  
12 authorized \$85 million to create the New York clean  
13 transportation prizes administered by NYSERDA, and  
14 targeted to disadvantaged communities. Since the  
15 2020 make-ready order, 10 grand prizes have been  
16 awarded Statewide across three categories.

17 The Clean Neighborhoods Challenge  
18 which addresses pollution reduction at scale in  
19 disadvantaged communities, Electric Mobility  
20 Challenge, focusing on safe and convenient electric  
21 mobility options that help to solve disadvantaged  
22 community transportation needs, and the Electric  
23 Truck and Bus Challenge. Funding innovative  
24 solutions to medium and heavy-duty electric vehicle  
25 deployments.

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2 The make-ready order directed Staff to  
3 initiate a mid-point review of the program by no  
4 later than October 1st of 2022, and that this program  
5 review should utilize data collected from the program  
6 to consider its budgets and incentive levels, as well  
7 as emerging plug standards and other relevant program  
8 rightsizing.

9 Staff commenced the mid-point review  
10 on August 30th of 2022, which is quickly followed by  
11 the mid-point review kickoff meeting on September  
12 20th of 2022. Staff hosted a technical conference  
13 addressing a revised plug forecast developed by NREL  
14 on November 18th of 2022.

15 This was followed by a technical  
16 conference addressing reporting data and vehicle grid  
17 integration on November 29th of 2022, and a technical  
18 conference addressing disadvantaged communities and  
19 medium and heavy-duty vehicles on December 1st of  
20 2022.

21 Building on stakeholder feedback  
22 gathered through technical conferences, as well as  
23 historical program data and the updated plug forecast  
24 developed by NREL, Staff filed the mid-point review  
25 whitepaper on March 1st of 2023.

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2 In the mid-point review whitepaper,  
3 Staff proposed an incremental budget increase of \$407  
4 million. Driven largely by the revised plug forecast  
5 developed by NREL that found a decrease in L2 and  
6 increase in D.C.F.C. plug needs.

7 This revised forecast is due to longer  
8 range E.V.s and higher capacity chargers on the  
9 market, as well as a refined understanding of  
10 charging behavior. NREL also developed the first  
11 ever multi-unit dwelling specific charging analysis  
12 that furthered Staff understanding of unique needs  
13 for L2 charging access in dense urban areas.

14 Staff also revised the baseline per  
15 plug cost developed for the make-ready order, which  
16 predominantly used national averages by instead using  
17 real world historical program data. Staff also  
18 recommended that the make-ready program expenditures  
19 remain in place until December 31st of 2025, if  
20 utility has met its revised plug goals or until  
21 authorized budgets are depleted.

22 Finally, in the mid-point review  
23 whitepaper, Staff proposed to increase the  
24 disadvantaged community budget to release a 35  
25 percent allocation for consistency of the Climate

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2 Leadership and Community Protection Act or Climate  
3 Act.

4 These proposed changes include  
5 maintaining the dedicated disadvantaged communities  
6 make-ready budget to 20 percent for Upstate utilities  
7 and for L2's Downstate. But increasing the Downstate  
8 disadvantaged-communities allocation to a 25 percent  
9 for D.C.F.C. plugs to address high up-front costs and  
10 lack of garage access.

11 Staff suggested implementing the  
12 disadvantaged communities specific budget allocation  
13 to include \$25 million micro-mobility make-ready  
14 program and proposed a \$30 million incremental  
15 increase to existing medium and heavy duty make-ready  
16 pilot with expanded customer site eligibility.

17 Staff also proposed that the medium  
18 and heavy duty make-ready pilot which requires that  
19 recipients also receive an incentive from the New  
20 York State Clean Truck Voucher Program, now add the  
21 EPA Clean School Bus Program as an additional  
22 eligible incentive.

23 Both of these programs require the  
24 scrappage of an existing diesel vehicle to receive an  
25 incentive for a new electric model, thereby removing

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2 older polluting vehicles on the road. In addition to  
3 receiving 40 written comments from separate entities  
4 in response to the mid-point review whitepaper, Staff  
5 convened five technical conferences and stakeholder  
6 sessions to provide ample opportunity for feedback.

7 Staff hosted the mid-point review  
8 technical conference on March 22nd of 2023 to provide  
9 stakeholders the opportunity to ask clarifying  
10 questions and on mid-point review whitepaper as well  
11 as provide general feedback. A disadvantaged  
12 community stakeholder session was hosted by Staff on  
13 April 27th of 2023.

14 Technical conferences on data  
15 reporting, budgets, and plug goals as well as  
16 workforce development were hosted by Staff on June  
17 12th of 2023, July 27th of 2023 as well as September  
18 7th of 2023, respectively. Stakeholders in written  
19 comments in the subsequent technical conferences  
20 encouraged Staff to revisit the program budgets to  
21 account for the increase in D.C.F.C. costs as more  
22 favorable sites are developed.

23 Staff also assumed in the midpoint  
24 review whitepaper that L2 plugs needs at multi-unit  
25 dwellings and workplaces would receive up to 50 percent

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2 incentive tier in most cases. Both Staff -- both  
3 stakeholder comments and subsequent data provided by  
4 the utilities in an interrogatory request submitted in  
5 August of 2023 suggested that many site hosts attempt  
6 to install plugs in locations that are publicly  
7 accessible to maximize their incentives.

8 Lastly, stakeholders suggested that  
9 additional medium and heavy duty make-ready pilot  
10 funding would help support truck electrification  
11 while broader efforts are addressed in the recently  
12 launched proceeding on the motion of the Commission  
13 to address barriers to medium and heavy-duty electric  
14 vehicle target infrastructure under case number 23-E-  
15 0070.

16 The order before you today modifies  
17 Staff's whitepaper proposal in key respects and  
18 response to stakeholder feedback, revised  
19 programmatic data, and updated forecasting. In  
20 regards to the make-ready program budget, the  
21 underlying baseline for plug costs are updated to  
22 reflect historical data from the August 2023  
23 interrogatory request submission.

24 The L2 baseline costs are a weighted  
25 average with Downstate and Upstate specific values

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2 based on this historical data. The D.C.F.C. per plug  
3 baseline is developed using a dollar per kilowatt  
4 weighted average from historical program data.

5 The utility -- the utility side per  
6 kilowatt D.C.F.C. costs was derived without projects  
7 that have no utility site costs to address concerns  
8 that projects will be more expensive as more  
9 favorable sites are developed.

10 The budget in the order also uses  
11 historical data of the percentage of plugs committed  
12 and completed by incentive tier for Upstate and  
13 Downstate to develop assumptions on the allocation of  
14 incremental plugs by incentive tier.

15 Further, the number of multi-unit  
16 dwelling plugs incentivized by the program are  
17 modified to contain program costs. While the primary  
18 focus of the program remains on publicly accessible  
19 charging stations. The modified multi-unit dwelling  
20 budget acknowledges the importance of the sector to  
21 reaching max E.V. adoption, particularly in dense  
22 urban areas in the State.

23 As of August 2023, 16,503 L2 and 1,115  
24 D.C.F.C. were committed or completed in the make-  
25 ready program Statewide. The Mid-point Review Order



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2 identifies the need for an additional 21,853 L2 plugs  
3 and 5,187 D.C.F.C. plugs to support 850,000 E.V.s on  
4 the road.

5 Additionally, Staff's whitepaper  
6 proposal to increase the medium and heavy duty make-  
7 ready pilot by \$30 million is modified to an  
8 incremental increase of \$43 million from the make-  
9 ready order and eligibility is expanded to include  
10 publicly accessible sites to address the immediate  
11 need to support the segment of the market.

12 The total proposed Mid-point Review  
13 Budget is approximately \$1.243 billion, an  
14 incremental increase of \$542 million from the 2020  
15 authorization in the make-ready order.

16 The order modifies the make-ready  
17 program's end date at the end of 2025 by replacing it  
18 with an additional review process that Staff will  
19 commence by November 1st, 2025, or sooner, if 70  
20 percent of Statewide plug goals are committed and  
21 completed.

22 This additional review process will  
23 evaluate the make-ready program's effectiveness,  
24 progress towards plug goals, budget modifications,  
25 the impact of proprietary technologies, the ramping

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2 down of incentive allocations, and the continued need  
3 for the program.

4 Thank you for your time this morning.  
5 Zeryai Hagos and myself are available in New York  
6 City for questions in person. And Stephanie  
7 McDermott from Council's Office is in person in  
8 Albany.

9  
10 CHAIR CHRISTIAN: Thank you, Ms.  
11 Roberton. I appreciate the presentation. I'm very  
12 encouraged by the information you shared today  
13 because it's -- it's an indication that -- that the  
14 midpoint review process is in fact providing us with  
15 timely updates and the ability to revise and adjust  
16 our plans in a manner that can drive really  
17 meaningful results, so I'm very pleased by that.

18 I'm further pleased by the fact that  
19 the incentives are, in fact, driving the very results  
20 that we seek, increasing the number of publicly  
21 available charging stations available. So that's  
22 another green flag in this whole thing.

23 And I -- I think this is critically  
24 important because much of what's happening now is  
25 being driven, pun intended, by consumer adoption of  
E.V.s at increasing rates above and beyond anything

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2 we predicted in the past.

3 And if we are to be supportive and  
4 allies in making this transition a reality, we have  
5 to stay ahead of the curve and make sure that these  
6 charging stations are available. If they're not or  
7 if there are a lot more barriers than people expect,  
8 we run the risk of being a hindrance to economic  
9 progress rather than supporting it.

10 So I'm pleased to see the work you've  
11 done. I'm -- I'm encouraged by the results and the  
12 allocation of funds and the way they're distributed.  
13 And -- and also in part, not because they're focused  
14 only on passenger vehicles, but because of the other  
15 funding streams for public transit and micro-mobility  
16 to address a wider array of the population.

17 So thank you for putting this together  
18 in such a thoughtful manner and I look forward to  
19 seeing where things go from here. Commissioner  
20 Burman.

21 COMMISSIONER BURMAN: Thank you so  
22 much. I appreciate it. I appreciate a lot of the  
23 work that Staff has done. I -- I'm not as optimistic  
24 or focused on -- this is a good thing. I think that  
25 there are many challenges. I'm concerned that we

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2 have done the midpoint review but have not gotten  
3 under the hood on a lot of pain points.

4 And I'm concerned that we are looking  
5 to increase the funding. The funding is pretty  
6 significant initially and now we're layering on that  
7 even more, and I think that we are not directly  
8 addressing that we have missed the mark in many areas  
9 as a State.

10 And that perhaps the pivot point needs  
11 to be a more comprehensive look, not just with the  
12 Commission, but the State in terms of what this means  
13 in targets, and goals and funding, whether  
14 increasing, staying the same, or decreasing.

15 I will note that because it is clear  
16 that we have changed the goal posts, that we are  
17 indicating that there are perhaps other areas that  
18 it's okay to look at whether we need to change the  
19 goal post, again, stay the same, increase or  
20 decrease, and for that I do think it's important to  
21 recognize because we can't sort of pick and choose  
22 where we say, no, we got to go -- we got to go, you  
23 know, further, higher, and I -- I -- I want to  
24 understand that.

25 What does that mean in our role in

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2 terms of a reevaluation of the targets and the goals  
3 that have been set. I'm also in concern in here. We  
4 give more funding and more jurisdictional reach to  
5 NYSERDA. Not necessarily inappropriate, not  
6 necessarily something that I wouldn't support.

7 But I do think that doing things,  
8 again, here we have funding that's outside of the  
9 rate cases. Rate cases are really important, at  
10 least, as I see it. To get under the hood, there's  
11 more months of scrutiny by Staff, the ability to  
12 obtain books and records of -- from the company to  
13 support request for the rate increase.

14 Understanding how it fits with other  
15 priorities within the rate case, multiple rounds of  
16 testimony, transparent proceeding, multiple public  
17 records, and so it allows any interested stakeholder  
18 to request to be a party in the rate case and have an  
19 opportunity to debate the necessary funding being  
20 requested as part of that evidentiary process, which  
21 gets us to arrive at what the ultimate rates  
22 recommended in the joint proposal, whether they're  
23 sufficient.

24 And so that funding issue being done  
25 outside of the rate case as it applies to the company

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2 concerns me but as it applies here to NYSERDA, we  
3 have traditionally looked at that through a petition  
4 by NYSERDA to increase their budget or to approve  
5 their budget including administrative costs.

6 And I am concerned that we are doing  
7 it out of that process and into a specific one. And  
8 again, why this one as opposed to others? I think  
9 there needs to be some sort of reconciliation of how  
10 it fits in the larger whole and also more  
11 transparency from NYSERDA on -- on that part of it.

12 And more drilling down on the  
13 appropriateness of giving them more funding, giving  
14 them more jurisdiction. And also, as it relates to  
15 administrative costs pancaking on just leaves me  
16 concerned and questioning.

17 The other aspect here, and -- and this  
18 I -- I grapple with, you know, I'm not a fan of -- of  
19 working group by orders, just never have been. And  
20 sort of through my history of being at the  
21 Commission, someone wants to research how many  
22 working groups, task forces, or boards we've done  
23 since I've been on the Commission, appreciate it, go  
24 for it.

25 But in this case there was discussion

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2 on whether or not to have a new working group or to  
3 put it into the -- the challenges here into the --  
4 the existing interconnection. And there were some  
5 parties, I think, New York Best, who did not want a  
6 separate working group, but wanted it in the  
7 interconnection.

8 Can you talk a little bit about why  
9 there was sort of disagreement and why landing  
10 outside of the interconnection process?

11 MR. HAGOS: Commissioner Burman, I can  
12 address that question. I think in terms of both your  
13 broader points around the rate case process versus a  
14 generic proceeding, and then looking right at the --  
15 the recommendations in the draft order to have a  
16 subgroup to the interconnection technology working  
17 group and interconnection policy working group  
18 meetings focused on the interconnection process for  
19 E.V. charging.

20 Again, I think there are benefits to  
21 either approach of having a single working group or a  
22 subgroup. The draft order proposes a subgroup  
23 because the matters and the issues relating to the  
24 interconnection process for E.V. charging, that's a  
25 very discreet issue that, or initiative that requires

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2 parties to come up with a new process.

3 And the current work of the I.T.W.G.  
4 or I.P.W.G. which are the acronyms for those working  
5 groups. Right, they -- they've already worked  
6 through in detail a standard interconnection process  
7 for distributed generation and resolved that issue  
8 for D.E.R.s. And so the -- the work of the broader  
9 working group is really focused in other areas.

10 And so, you know, the -- the draft  
11 order again proposes to have a subgroup to really  
12 handle that initiative discreetly and I think that  
13 the intention would be that, once that discreet issue  
14 is resolved, to bring those stakeholders into the  
15 broader working group to address more, I'd say more  
16 detailed issues that the broader work group is  
17 focused on today, like U.L. standards for  
18 interconnection.

19 There are, you know, there are a bunch  
20 of other matters that are handled by those working  
21 groups, and there's arguments to have it both ways,  
22 but that's -- that's why the draft order proposed it  
23 the way it was.

24 COMMISSIONER BURMAN: All right. I --  
25 I can accept that. Again, I'm not a big fan of



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2 working groups by Commission order, especially  
3 sometimes I feel like some of the issues don't  
4 percolate up until too late to the Commission, or  
5 don't percolate up at all.

6 Or frankly we might do better in  
7 having more hands on from the initial, rather than at  
8 the back end. And -- and -- and there's a lot of  
9 work that goes into working groups, some good, some  
10 bad, some indifferent, and looking at sort of what  
11 that looks like and I think it's important.

12 But I -- I do think it's something to  
13 keep in mind because there did seem to be or,  
14 usually, it's working group or no working group, but  
15 here it was working group, no working group, and  
16 what, something else in existed working group, I just  
17 want to kind of raise that.

18 The -- the other issue I just want to  
19 flag, there were -- there was one party comment that  
20 wanted to -- if deployment in this sector continues  
21 to lag, the -- the party recommended considering  
22 alternative ownership models, including utility  
23 ownership.

24 I want to make clear that the  
25 Commission is not supporting utility ownership here

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2 or even looking at it perhaps later and -- and so  
3 that is not -- while that party raises that, that's  
4 not an issue.

5 If there is going to be any looked at  
6 utility ownership, it really needs to be very  
7 transparent and -- and clear and -- and make sure  
8 that we have stakeholder engagement on broader  
9 issues. So I just want to make sure that that's kind  
10 of focused.

11 The other issue is the order gives, I  
12 think I'm a little perplexed by it, but it gives to -  
13 - we're directing Con Edison, not Staff, we're  
14 directing Con Edison to submit a draft -- a straw  
15 proposal describing the efforts put forth in  
16 streamlining their queue management system for  
17 consideration and development by the E.V. working  
18 group.

19 Can you explain sort of that and why  
20 we're picking Con Edison out of all of the utilities  
21 here?

22 MR. HAGOS: I can take that question,  
23 Commissioner Burman. As you probably recall, this  
24 January the Commission had to take action to modify  
25 some of the program design specific to the Con Ed

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2 program and that was really in response to market  
3 activity in a rapid or increase in activity in the  
4 development of charging infrastructure in New York  
5 City that really hadn't happened in the rest of the  
6 State yet.

7 And so through that process Staff, you  
8 know, has -- has worked with Con Edison and has under  
9 -- we've observed them developing a number of  
10 practices to make their interconnection and  
11 application process to programs more efficient.

12 And so this draft order really just  
13 directs Con Edison to use that insight to develop a  
14 straw proposal that the rest of the State can opine  
15 on and -- and improve upon because this issue really  
16 hasn't shown up in the rest of the State yet and --  
17 and so it's really a starting point, you know, the  
18 Commission may not use that -- that straw proposal  
19 ultimately, or it may change drastically from what --  
20 what -- what is proposed by Con Edison.

21 But it -- it was really an attempt to  
22 flesh out in the public in a transparent manner,  
23 those lessons learned in New York City for the use in  
24 the rest of the State.

25 COMMISSIONER BURMAN: Okay. I think I

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2 can accept that though I do have some concerns. I  
3 think it's for us, as you know, directing Staff when  
4 we're looking at something as a Statewide  
5 perspective. Obviously, lessons learned from  
6 existing situations and folks who are already looking  
7 at it, I think are helpful.

8 But I do worry, you know, we do -- we  
9 do have joint utilities, we do have to recognize that  
10 one utility is not, you know, one size doesn't fit  
11 all. And so, I don't want us to sort of start from,  
12 you know, this perspective of a large utility who is  
13 -- it might be putting forward a great straw proposal  
14 for them, but we're charging them to put a straw  
15 proposal together for Statewide consideration.

16 So what I would suggest strongly, is  
17 that Con Edison work with their sister joint -- their  
18 sister utilities in a way that makes sure that other  
19 things that may be of consideration are looked at in  
20 a comprehensive way that they feel the straw proposal  
21 is representing more on a statewide basis rather than  
22 one specific utility.

23 And so I -- I -- I frankly am not sure  
24 that this is the right way to go with asking you to  
25 do a straw proposal. Technical conference where they

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2 present, fine, but I don't know. It just seems --  
3 seems a little odd to me that we would do it this  
4 way.

5 Again, I want to make sure that this  
6 doesn't then become sort of the norm for how we do  
7 other things, where it's really for us to determine  
8 what the Commission should do, or determine what we  
9 need straw proposals from Staff, you know, just my --  
10 my own -- they want to put a -- if anyone wants to  
11 bring forward a petition, that's fine, but we don't  
12 usually direct straw proposals on a statewide basis,  
13 so that's just my two cents.

14 The other issue that I am going to  
15 raise is the micro-mobility issue. There's a lot of  
16 safety issues. There's a lot of challenges and I  
17 recognize that we're trying to address disadvantaged  
18 communities and those who need other access and  
19 micro-mobility may be helpful.

20 I'm just -- I've -- I've just got to  
21 say, it -- it gives me great pause as we look forward  
22 and again what this looks like and make sure that we  
23 are fully focused on the safety issues. And, you  
24 know, I -- there is some language in there that talks  
25 about that, talks about why it's better because it's

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2 public.

3 All that may be well and good, but I  
4 want to make sure that we are really looking at some  
5 of the accountability perspective, whether these  
6 funds are very -- are helpful, and whether it's not  
7 presenting other challenges and that the funds may be  
8 used elsewhere.

9 Do you want to speak a little bit  
10 about the micro-mobility issues?

11 MS. ROBERTON: Yeah, definitely.  
12 Thank you, Commissioner Burman. We're aware of the  
13 traffic safety issues in particular around micro-  
14 mobility. We know that's mostly dealt with locally  
15 in New York City, N.Y.P.D. will do a ticketing blitz  
16 at some points to make sure that people who are  
17 disobeying traffic laws, who are using e-bikes and e-  
18 scooters are -- are ticketed and -- and are  
19 responsible for -- for breaking those laws.

20 The program is addressing a form of  
21 mobility that's already being used widely by  
22 disadvantaged communities as -- as you mentioned,  
23 there's over 60,000 food delivery workers that use an  
24 e-bike or e-scooter.

25 There's cargo bikes over 350 across

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2 three different freight providers within New York  
3 City that are also using these devices. E.V.s still  
4 remain relatively expensive for a lot of  
5 disadvantaged community residents and these vehicles  
6 are much less expensive and much more accessible and  
7 we're hoping that this program will provide safe  
8 charging infrastructure while the safety issues on  
9 the road are being dealt with locally by -- by P.D.  
10 and equivalent organizations.

11 COMMISSIONER BURMAN: Okay, thank you.  
12 The other thing that I'd flag is, in this order we  
13 are directing Staff and the joint utilities to work  
14 directly with the agencies responsible for regulating  
15 affordable housing to increase awareness of and  
16 facilitate access to make-ready program incentives  
17 among eligible buildings, particularly in Upstate  
18 service territories where uptake has been lagging.

19 I'm not sure that I've seen an order  
20 where we direct Staff and the joint utilities to work  
21 directly with the agencies responsible for affordable  
22 housing. Not opposed to it, but again, so that gives  
23 me pause on why do we see this, as for E.V.s as the  
24 important one.

25 To me I would say, you know, are there

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2 other priorities that take precedent where we should  
3 be sending a signal in the orders that we want our  
4 Staff and the joint utilities to work with the  
5 specific agencies on that -- that deal with housing.

6 Our -- our Staff does work already  
7 informally, but I just felt -- I'm not sure that I  
8 feel 100 percent comfortable that the first time that  
9 I can remember where we're doing a directive like  
10 this, we're picking them to work on, you know, the  
11 E.V. charging versus perhaps energy efficiency or sub  
12 meter issues or, you know, heat and hot water issues  
13 that -- that really are more front and center to me  
14 as priorities.

15 But be that as it may, I do think it  
16 will be interesting to watch and also to have the  
17 data reported back to us. The other thing is, we do  
18 here talk about what information should be, what call  
19 number should be, you know, when there are problems,  
20 right? Who -- who do you call?

21 And so wanting that information so  
22 that people can know who to call. And, you know,  
23 there is concern, if you have too many numbers, you  
24 know, you're going to -- everybody's going to get  
25 confused and pick the wrong one.



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2 I don't know. Frankly, I'd like -- if  
3 I -- if I have an issue, I want as many numbers as I  
4 can and I want the one number that I call to be  
5 solving my issue.

6 I do worry that we will have lack of  
7 tracking on the complaint process, and lack of  
8 tracking on being able to understand the  
9 communication that was received in a timely fashion  
10 on issues that people are having and then they'll  
11 sort of be more word of mouth.

12 Can you speak a little bit to that?

13 MS. ROBERTON: Definitely. The -- the  
14 recommendation to have the phone numbers on the  
15 charges came out of the customer experience working  
16 group. We had our last meeting in August of 2022, we  
17 got really helpful feedback on the types of issues  
18 that consumers are facing accessing E.B.S.C. across  
19 the State.

20 Notable issues, outages and -- and  
21 block chargers, a way that that's being addressed  
22 through data reporting, we're adopting a national  
23 standard for uptime, a new formula that's  
24 administered through or used by F.H.W.A. for NEVI  
25 funding.

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2 So if that consistent formula is brand  
3 new for the program, we're hoping it will be a -- a  
4 way to get much more accurate data or an average  
5 information in particular in the existing make ready  
6 order, we have a provision that we need outage  
7 information, we don't describe exactly how that has  
8 to happen.

9 So adopting something nationally,  
10 hopefully will -- will be helpful.

11 COMMISSIONER BURMAN: Okay, thank you.  
12 And I -- I know a lot of this came out through our  
13 ongoing work as a State with other states, but we  
14 don't really have in here how we compare with other  
15 states and I do think that that information is  
16 something that requires more sort of focus and also  
17 looking at what are the challenges where we, you  
18 know, are grade wise compared to other states in  
19 specific issues and lessons that we can learn from  
20 that. I don't know if you have any comment on that.

21 MS. ROBERTON: I definitely agree,  
22 we're in a conversation with our counterparts in  
23 California across the E.V. proceedings and I guess --  
24 I agree that that's something that we're doing  
25 ongoingly informally with Staff and we learn a lot

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2 from our counterparts on the west coast.

3 They tend to be a little ahead of us  
4 but there's some programs where we can collaborate  
5 and learn more from their initiatives.

6 COMMISSIONER BURMAN: As to battery  
7 storage, I was struck on page 64 of the order where  
8 it says, it's talking about an on-site energy storage  
9 paired with E.V.s and talking rightfully so about the  
10 potential to further integrate renewable energy with  
11 electric vehicle charging and provide peak reduction.

12 But we say that while we're -- the  
13 Commission clarifies that any energy storage device  
14 receiving make-ready program incentives must be  
15 paired exclusively with E.V.s and be solely used for  
16 E.V. charging and not for any other purpose such as  
17 providing backup power to the host site.

18 So I just want to sort of look at  
19 that, read -- if I'm reading this right, there -- we  
20 may be missing the mark. If there's an opportunity  
21 to utilize this to provide backup power to the host  
22 site. And so I understand, I think, trying to make  
23 sure that it's getting used specifically for the E.V.  
24 charging and that's -- that's the goal and the  
25 direction, right?

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2 But we're pairing it with something  
3 that may have other uses, and so I'm just concerned  
4 that we're limiting ourselves in a way that may be  
5 problematic, and I don't know if you have any thought  
6 on that.

7 MS. ROBERTON: Yeah, I hear -- hear  
8 the concern Commissioner and -- and agreed that on --  
9 on surface there's -- maybe some lost opportunities,  
10 but the main intent of that within the order is to  
11 make sure we're not double incentivizing. Storage is  
12 recognizing that we have other programs that support  
13 storage that we don't want to have a site host or an  
14 entity access some of our storage-related incentives  
15 administered by utilities and then also getting  
16 incentives through make-ready so the intent was to  
17 make sure that the incentives were going to the right  
18 -- the right place.

19 COMMISSIONER BURMAN: So what I would  
20 say is, what we really want to do is say, we are open  
21 to providing backup power to the host site, but we  
22 recognize that we do not want to inappropriately  
23 provide double incentives.

24 Therefore, from an accountability,  
25 first of all, a lot of this is from an accountability

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2 perspective, we're going to need to make sure that  
3 there's not double incentive counting, et cetera. So  
4 that we really are open to it, but that we are  
5 concerned about double incentives and other things,  
6 and so we really need to be mindful of that.

7 We should be mindful of that across  
8 the board in everything we do, but rather than what I  
9 see as limiting language that may be missing, as you  
10 said, a good lost opportunity. And then the only  
11 other thing is just really a nit for me.

12 In the order, it's -- it's discussing  
13 pay to park lots, and in our discussion and  
14 determination we say, the Commission declines to  
15 modify the current eligibility criteria for pay to  
16 park lots in line with Staff's recommendation. I  
17 support that.

18 But then we say, given only -- given  
19 only one comment was received on this subject, the  
20 Commission finds that the current treatment of such  
21 locations effectively encourages the build out of  
22 publicly accessible infrastructure.

23 I -- I don't want the misperception to  
24 be that if we don't receive comments or we only get  
25 one comment that we're good to go. In fact, I really

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2 question, sort of, is that -- is that truly defining  
3 that we're good to go, or is it just lack of either  
4 interest in submitting comments, or perhaps, you  
5 know, comment fatigue.

6 In this case, it's probably good to  
7 go, but I do think that to be in an order saying that  
8 as sort of that's the -- that's the rationale, I  
9 think we need to just be a little bit careful that we  
10 don't, you know, quickly adopt that for all things  
11 when it's more about comment fatigue or other things.

12 So with that, I am with great  
13 hesitation going to be concurring on this, I am truly  
14 concerned about the direction and the funding issues,  
15 and so I think we really need to really be careful  
16 and I think we need to take a hard look at all of our  
17 C.L.C.P.A. and other climate energy goals and  
18 targets, and kind of look at what we're doing on a  
19 holistic basis.

20 And while it's difficult to, you know,  
21 have to make some course corrections, it's really now  
22 is the time. So thank you.

23 CHAIR CHRISTIAN: Thank you.

24 Commissioner Alesi?

25 COMMISSIONER ALESI: Thank you,

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2 Chairman. Thank you for your collective efforts.

3 The expertise and professionalism of the Staff once

4 again is on a full display here. This is very

5 ambitious. And at some point I think ambition and

6 reality will come face to face.

7 I hope the ambition prevails and that

8 it will give perfect testament to your hard work.

9 And thank you for your presentation.

10 CHAIR CHRISTIAN: Thank you.

11 Commissioner Howard?

12 COMMISSIONER HOWARD: Thank you, Mr.

13 Chairman. I think both Zarai and Jen know how much

14 this subject matter means to me personally and

15 professionally and I think -- I don't know anything I

16 have spent more time on as a Commissioner than --

17 than the issue of E.V.s.

18 My first question is, will we make --

19 will the State of New York make our original goal of

20 850,000 E.V.s on the road by 2050 -- or 2025, pardon

21 me.

22 MR. HAGOS: Commissioner Howard, I

23 will note that Staff, we're not, you know, auto

24 industry analysts, but our current perspective is

25 that the State is not on track to achieve 850

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2 vehicles -- electric vehicles on the road by 2025.

3 And, you know, we do note that, you  
4 know, right as the -- the order was -- the order was  
5 released during the middle of the COVID-19 pandemic  
6 and so the goals were established before knowledge of  
7 that really seismic shift to the landscape to develop  
8 anything in the State of New York wasn't -- we had no  
9 knowledge of that.

10 So, you know, I think the COVID-19  
11 pandemic supply chain shortages that resulted as  
12 coming out of that pandemic did certainly impact the  
13 rate in which I think we would have otherwise grown  
14 the E.V. market here in New York.

15 And then I'd say in a more near term,  
16 the I.R.A. passage did create additional incentives  
17 for E.V.s, but that requires built in America for  
18 many of the E.V. models and that further slowed the -  
19 - the pace in which I think we would have otherwise  
20 seen, you know.

21 So I think there's a number of  
22 compounding issues that have caused us to fall short  
23 of the 850 mark. But, you know, looking at the  
24 current rate of growth, it looks like we can still  
25 get there in 2026 or 2027, we just keep pace with the



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2 current growth rate year over year.

3 COMMISSIONER HOWARD: So like much  
4 that we are facing now in the electrification and  
5 C.L.C.P.A. adoption, maybe it's time this we've --  
6 we've acknowledged through this order that we are  
7 recalibrating our goals.

8 That's not to say that, as you know,  
9 personally, I was skeptical of the goal from day one,  
10 COVID notwithstanding and -- but now we know -- now  
11 we move on. So we're going to miss our original  
12 target for a variety of reasons.

13 So -- and I -- I do understand the --  
14 the effort of this order to foster a quicker level of  
15 adoption. Have we calculated -- this is -- we are  
16 now approaching -- we are exceeding pract --  
17 practically \$2 billion in this program.

18 Have we calculated rate impacts to  
19 customers on this new request for revenue?

20 MR. HAGOS: To clarify, the -- the  
21 budget proposed -- the proposed budget increase moves  
22 from \$701 million up to \$1.243 billion in total, you  
23 know, as a -- as a kind of budget bound cap on what  
24 utilities can spend through this program.

25 And the draft order does present

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2 revenue requirement impacts of the proposed budget in  
3 the appendix, and I believe the range and, you know,  
4 that that reflects the -- the total program spend  
5 occurring through the end of 2025 and effective bill  
6 increase that could be driven exclusively by the cost  
7 of the program in 2026.

8 And the estimates I think are ranging  
9 from 0.7 percent increase to somewhere around 1.7  
10 percent depending on which utility we are talking  
11 about. The draft order also does note, however, that  
12 those are very conservative estimates because it  
13 doesn't factor in the likely increase in revenue that  
14 offsets the increase in cost because as E.V. charging  
15 grows and non-electric, you know, fuel consumption  
16 for transportation is absorbed into the utility  
17 sector, you know, the -- the -- there will be more  
18 throughput of the distribution system, and that has  
19 an offsetting bill reduct -- reducing effect.

20 And so those are very -- very  
21 conservative estimates in our opinion.

22 COMMISSIONER HOWARD: So I just want  
23 to make the point on this is that this is to use a --  
24 my well-worn phrase, another pancake on the stack of  
25 our way to de-carbonization and C.L.C.P.A.

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2 compliance.

3 So again, it -- it sounds very  
4 inexpensive or relatively inexpensive out of context,  
5 but as we add the entire cost of programs, this is  
6 just one more increased cost to rate payers. And  
7 again, I guess I'll use this time as this is a major  
8 policy initiative that in many respects, like many  
9 things we're doing in this space, I think could be  
10 better spent with more general fund revenue and less  
11 ratepayer dollars.

12 Have we calculated any increased broad  
13 load characteristics going forward to the entire  
14 system as -- as -- as E.V.s are more -- as more  
15 adoption and what we may anticipate going forward  
16 through the period of this order, what the percentage  
17 of growth of load of the investor owned utilities may  
18 be attributable to E.V. charging.

19 MR. HAGOS: Commissioner Howard, this  
20 order doesn't present utility specific load forecasts  
21 that are just the incremental portion driven by E.V.  
22 charging, you know, each rate case proceeding does  
23 have a, you know, generally a three-year horizon that  
24 does include the effects of E.V. charging load.

25 And that's the -- I'd say, most

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2 granular utility specific analysis that we can point  
3 to. I will also say that in advance, or prior to the  
4 order as the State developed a clean transportation  
5 roadmap when we were first examining, you know, the  
6 costs and the -- the effects of C.L.C.P.A. on  
7 transportation electrification, Staff did work with  
8 NYSERDA to estimate the distribution system impacts  
9 of transportation electrification across the State at  
10 a very high level. And we did publish something  
11 that's called the TEDDY study that does include long  
12 term load forecast projections and the expected  
13 utility investment required to the distribution  
14 system and we did that through 2050 to through, you  
15 know, the achievement of the -- the broad climate  
16 policies here in New York State.

17 And so we did have that -- that  
18 analysis in advance of the order.

19 COMMISSIONER HOWARD: The reason I ask  
20 is, there are two major drivers of load increase  
21 going forward. One will be buildings and the other  
22 will be transportation.

23 So again, something that we must keep  
24 in mind and then as we calculate going forward  
25 because of all the interrelationships that how many

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2 new kilowatts we're going to need at all level, not  
3 only at the distribution level, but at the generation  
4 level, and transmission level.

5 One of the things that's always  
6 concerning and I -- and I've spoken to you too  
7 multiple times on this, is the issue of performance  
8 standards. I know that we are now trying to get a  
9 handle on how much -- how many E.V. chargers just  
10 don't work.

11 And as from our customer experience  
12 and broader other -- our customer experience working  
13 group and just other stuff in the -- in -- in the  
14 popular press, that a huge percentage of the current  
15 fleet of public E.V. chargers just don't work on any  
16 given day.

17 And that being case -- the case, what  
18 is -- I know this is a carrot approach to E.V.  
19 charging. So what is the stick to make sure that  
20 when we pay for something, it actually is going to  
21 work.

22 MS. ROBERTON: Commissioner Howard,  
23 it's a -- it's a considerable barrier to the adoption  
24 of E.V.s and the usage of E.V.S.C. mentioned earlier  
25 that we are adopting that national average standard,

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2 which will make our data quality much better and much  
3 more consistent with what's happening in other  
4 states.

5 But I'll also note within our  
6 recommendations for data reporting, the J.U. and  
7 Staff are directed to work together towards a data  
8 reporting compliance filing and included in that will  
9 be a preferred network list.

10 So we know that some E.V.S.C. networks  
11 are better than others around its reliability, data  
12 quality, and outages, and wanting to provide that  
13 information to consumers to site hosts who are  
14 installing chargers as well, who maybe aren't well  
15 versed in the different options out there.

16 What we're imagining will be or we're  
17 hoping it will be helpful to address some of those  
18 issues as well.

19 COMMISSIONER HOWARD: So we currently  
20 have no plan yet to deal with some sort of penalty to  
21 comply. We will take -- people will be able to take  
22 rate payer money, but we don't have an ability as of  
23 yet to get the money back or provide some penalty if  
24 what we paid for doesn't work. Is that correct?

25 MS. ROBERTON: The -- the mid-grade

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2 order does include a claw back provision, so the  
3 utilities do have the ability to claw back incentives  
4 if needed. A complication that's come up in our  
5 discussions with the J.U. and stakeholders is often  
6 the incentives go towards a site host who maybe are  
7 unaware of the quality of charger that they're  
8 installing they just want to have the amenity for  
9 people using a parking facility.

10 So the recipient of the incentive and  
11 the -- the entity that's actually responsible for  
12 outages are just two -- at times, two different  
13 entities. So clawing back the incentives to date  
14 hasn't felt appropriate where the -- the issues are  
15 today.

16 So we're hoping that data compliance  
17 reporting and making that much more stringent could  
18 be a way to start addressing some of those issues.

19 COMMISSIONER HOWARD: The reason I ask  
20 because certainly anecdotally and maybe as much as  
21 one in four chargers that are currently in the fleet  
22 and they just don't work on any given day, and  
23 probably the single biggest frustration from current  
24 E.V. owners is finding, you know, and particularly  
25 when they're directed through the internet or a

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2 variety of other things, I noticed there's a pending  
3 piece of legislation dealing with a hosting, a  
4 website that will direct people to -- to charging  
5 stations that may or may not be working.

6 So in that regard, I do believe that's  
7 something that we should pursue in earnest very soon  
8 because while State statute currently doesn't treat  
9 the buying and selling of electricity for vehicle  
10 charging as a utility function, it's sort of walking  
11 and talking like a duck.

12 The -- I note on the micro-mobility  
13 aspect of this have -- last week the F.D.N.Y. was  
14 quite stringent in their language regarding their  
15 real fear of -- of deaths through fire deaths because  
16 of poorly constructed and maintained micro-mobility  
17 devices, i.e., electric bikes and the like.

18 So have they participated, have we  
19 reached out in any meaningful way to the F.D.N.Y. on  
20 how this micro-mobility program will enhance their  
21 goals of public safety.

22 MS. ROBERTON: So we have had through  
23 comments engagement, the City of New York as a -- as  
24 a broad entity, we've had direct conversations with  
25 NYCHA, in particular since many of these fires are



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2 happening within NYCHA property.

3 And they are very supportive of having  
4 a program that will help them install micro-mobility  
5 charging outdoors within a disadvantaged community  
6 that won't be impacting the property and life of  
7 residents, if there is a fire, which hopefully there  
8 isn't.

9 With more of safer infrastructure and  
10 some of the work that New York City's leading around  
11 U.L. approval for batteries sold within New York  
12 City, which will hopefully help some of those fire  
13 safety issues.

14 If there is a fire outdoors at a  
15 installation that's installed formally, as opposed to  
16 an extension cord and some -- inside someone's  
17 apartment, we're optimistic that that will address  
18 some of those issues. They are -- they are  
19 significant.

20 COMMISSIONER HOWARD: Well, I strongly  
21 suggest that in the near term, we reach out directly  
22 to the F.D.N.Y. to get their direct input and not  
23 just through the mayor's office. I note that Nassau  
24 and Suffolk Counties lead our State in terms of E.V.  
25 adoption and they aren't part of this program.

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2 So have we had discussions with LIPA  
3 on where they're at vis-à-vis, a parallel program or  
4 even the need, given the fact that they have had --  
5 the most significant growth of E.V. registrations.

6 MR. HAGOS: Commissioner Howard, the  
7 Long Island Power Authority did authorize a make-  
8 ready program that was modeled after the program  
9 approved by this Commission in 2020.

10 The make ready program in Long Island  
11 is authorized through their utility 2.0 process,  
12 which has an annual update which -- which Staff  
13 provides written feedback.

14 And so there has been close alignment  
15 between D.P.S. Staff and Long Island Power Authority  
16 and PSEG Long Island in ensuring that -- that those  
17 ratepayers also have support from -- from the utility  
18 to deploy charging infrastructure.

19 I think their -- their program is a  
20 year or two behind the I.O.U. programs that are  
21 authorized through this proceeding, but -- but as you  
22 noted they have a really strong adoption of E.V.s in  
23 that area, primarily due to demographic  
24 characteristics in Long Island.

25 And they also have a large incidents

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2 of drivers who have access to charging at home and so  
3 it's been a real bright spot in terms of E.V.  
4 adoption across the State.

5 COMMISSIONER HOWARD: Yeah, I -- as  
6 we've discussed before, clearly early adopters of  
7 technology are more well-heeled than -- than many New  
8 Yorkers and that's how it happens.

9 So, again, it is -- is -- it is  
10 gratifying to see that E.V. adoption is going higher  
11 in the higher income neighborhoods, but again,  
12 catching everybody else up will be very difficult.  
13 The last I'm going to say that -- that I'm  
14 increasingly concerned or on a going forward basis,  
15 that this -- these incentive programs are not  
16 permanent -- and permanent in -- on the rate base.

17 Motor vehicle fueling has in the  
18 United States and in this State has been a private  
19 sector funded operation since the inception of the  
20 automobile and that the entire model, I do believe  
21 needs to get back to private sector funding.

22 We know -- I have some note that  
23 several of the major O.E.M.s are now involved in this  
24 space and I find that to be very gratifying,  
25 particularly General Motors in their recent

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2 proposals, and that on a going forward basis, just as  
3 a matter of policy.

4 The more we can move these activities  
5 to private capital, I think the better we're going to  
6 be. Again, I -- I have been in support of this with  
7 some degree of skepticism from -- from day one. I  
8 will continue to support this, I will support this  
9 order.

10 However, we have a lot of tough stuff  
11 to go through and I think particularly vigilance in  
12 monitoring all aspects of this order become more  
13 important than ever. So again, Jennifer, Zeryai, you  
14 know how much I appreciate your work personally.

15 I think you're some of the best in the  
16 business. And I would just -- just one more  
17 cautionary tale is we're not California and many of  
18 the lessons learned in California, having just come  
19 back for there and seen \$6 a gallon gasoline, I  
20 understand why E.V.s look pretty popular.

21 So, again, it is an economic decision  
22 on how much it cost to operate your vehicle that  
23 drives many Californians. So, again, I do appreciate  
24 your good work and will -- I will be supporting this.

25 CHAIR CHRISTIAN: Thank you.

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2 Commissioner Valesky.

3 COMMISSIONER VALESKY: I have no  
4 comments or questions and will be supporting the  
5 item.

6 CHAIR CHRISTIAN: Thank you.  
7 Commissioner Maggiore.

8 COMMISSIONER MAGGIORE: I'll also be  
9 supporting the item. I just -- a couple of comments,  
10 you know, it's a very extensive order and I -- a lot  
11 of material in there. I think of it as a report.  
12 It's not a report, it's an order.

13 The order is attempting to address  
14 challenges that we're encountering while we as a  
15 society are attempting to facilitate massive change  
16 and just -- this is not in the material in the -- on  
17 the record, but I happen to be listening to a podcast  
18 by the New York Times today that was commenting on  
19 the Inflation Reduction Act's attempt to convert the  
20 whole country from combustion engine vehicles to  
21 electric vehicles.

22 And the commentary was that the part  
23 of the plan to stand up an ecosystem within the  
24 United States from the point of extracting minerals  
25 from the ground to the point of selling the vehicles

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2 has been successful in a very short period of time.

3 What's been less successful is the  
4 consumer adoption of electric vehicles at the speed  
5 and rate that the plan had envisioned. But if you --  
6 if you go back, if you look from a more historical  
7 perspective, we, as a society have done this before.

8 The ownership of combustion engine  
9 vehicles is -- is really a phenomenon of the last 130  
10 years or so. And there was a broad articulation of a  
11 policy goal when that industry was just standing up  
12 that some of us will remember.

13 It was part of a campaign slogan, a  
14 chicken in every pot, a car in every garage, right?  
15 And that -- that was Herbert Hoover's campaign slogan  
16 in 1928 and his broad policy goal reached an  
17 impediment in the Great Depression.

18 If you look at -- Chairman is smiling.  
19 If you look at vehicle ownership rates, there's a  
20 steep line going up until the depression set in, and  
21 then, after the war, the steep line goes back up. It  
22 is a mistake -- well, I'm not going to say it that  
23 way.

24 The goal was achieved in large part,  
25 not exclusive part, due to massive government

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2 subsidies of the soup to nuts opportunity to own and  
3 operate comb -- combustion engines. We're making  
4 adjustments now and I think we're moving, you know,  
5 not as fast as we want to, but in historic terms  
6 very, very quickly.

7 I've mentioned this before and, again,  
8 it's not part of the material, but, you know, in  
9 2006, I went into the movie theater and I saw a  
10 documentary called, Who Killed the Electric Car, and  
11 the premise was that that the whole idea of the  
12 electric car was plausible, but it was dead.

13 And that was in the movie theater 17  
14 years ago. And now, we're talking about do we have  
15 enough working charging stations to facilitate the  
16 entire turnover of the State of New York. And so,  
17 you know, surprise, we're doing something complicated  
18 and we're running into roadblocks and we're doing  
19 something in order to overcome the challenges.  
20 That's not a surprise.

21 I find this actually very encouraging.  
22 We're going to encounter other difficulties. It's a  
23 noble goal. I think we're going to achieve the goal  
24 and so I'm going to be voting yes. And I want to  
25 commend you for your -- for your work.

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2 This is the first time I got the  
3 Chairman to smile in a long time. I'm just going to  
4 note that too for the record.

5 CHAIR CHRISTIAN: I'll try harder.  
6 Thank you. So that said, we'll do a call for vote.  
7 My vote is in favor of the recommendation to approve  
8 the midpoint review white papers recommendation as  
9 discussed. Commissioner Burman, how do you vote?

10 COMMISSIONER BURMAN: I concur.

11 CHAIR CHRISTIAN: Thank you.

12 Commissioner Alesi?

13 COMMISSIONER ALESI: Yes.

14 CHAIR CHRISTIAN: Thank you.

15 Commissioner Howard?

16 COMMISSIONER HOWARD: Yes.

17 CHAIR CHRISTIAN: Thank you.

18 Commissioner Valesky?

19 COMMISSIONER VALESKY: Yes.

20 CHAIR CHRISTIAN: Thank you. And

21 Commissioner Maggiore?

22 COMMISSIONER MAGGIORE: Yes.

23 CHAIR CHRISTIAN: Thank you. The  
24 items are approved and the recommendations are  
25 adopted. Thank you. Great job.



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2 We will now move to the consent  
3 agenda. Do any Commissioners wish to comment on or  
4 recuse from voting on any of the items on the consent  
5 agenda? I'll begin with Commissioner Burman.

6 COMMISSIONER BURMAN: Yes. Thank you.  
7 I have five items I'm going to make some brief  
8 comments on. 164, which is the Seneca Nation item.  
9 I'm going to be concurring. I'm not sure I fully  
10 agree with the C.L.C.P.A. language in there, but I am  
11 supportive of the item itself and I think it is  
12 legally sufficient. So I will be agreeing --  
13 concurring.

14 On item 261, this is a consumer of  
15 complaint where the Staff is recommending to us that  
16 the Commission deny the complaint's appeal and uphold  
17 the informal review decision.

18 I take a pause. I agree and I will be  
19 concurring on this item, but I just want to flag that  
20 in this item, in the determination, it states that  
21 the Complainant cites a Senate Bill, which happens to  
22 be Senate Bill 334, 2023. 334, proposing amendments  
23 to the public service law.

24 However, as of this date of this  
25 determination, the proposed changes and subsequent

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2 versions of these -- of those proposed changes have  
3 not been given to the governor nor has the governor  
4 signed any of them.

5 Therefore, the company's compliance  
6 with these amendments or lack thereof is not an issue  
7 ripe for consideration and will not be addressed  
8 here. As of actually November 13th, the bill which  
9 was passed by both houses has been sent to the  
10 governor and is awaiting either a veto or an  
11 approval.

12 I raised this because going back to  
13 the history of it, there was a veto message in 2022  
14 number 145, that stated, and this bill is to address  
15 requirements regarding billing for electric services  
16 and it will require their electric and gas bills  
17 include additional information, including the highest  
18 charge for specific line item.

19 And the veto message said and I quote,  
20 while I am in favor of increasing public awareness  
21 for information on utility bills, requiring utilities  
22 to provide this extremely specific information would  
23 lead to cost to ratepayers that outweigh the marginal  
24 benefits such information would provide.

25 Additionally it would result in a significant

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2           administrative burden for the utilities,  
3           particularly, the smaller municipal utilities and  
4           could complicate and thereby dilute the informational  
5           value of the bill itself and so the Governor vetoed  
6           the bill.

7                   I raise this because I do think that  
8           we -- there was recently this year, there was another  
9           bill that dealt with not utilities, but ESCO's and  
10          others, which, you know, also had the same, I think,  
11          value, but perhaps has some complicated factors in  
12          terms of what this means in terms of impact on  
13          implementation.

14                   However, here, there's an opportunity  
15          for us to look at pending bills in this case before  
16          the governor for either veto or signature and see  
17          while we're looking at this -- well, if this bill was  
18          law, what would it mean.

19                   Would it be helpful to this situation,  
20          would it not be, do we agree with the past veto, this  
21          bill language, it looks like it was pretty much the  
22          same bill we submitted without taking into  
23          consideration the changes from the veto.

24                   So while I understand that this  
25          complainant can't take advantage if the bill is

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2 passed. I do think it's an opportunity for us to  
3 make sure we fully understand and weigh in on whether  
4 or not this is a good thing for consumers or a bad  
5 thing.

6 And what it may mean, you know, right  
7 now it looks like it's probably a veto worthy, but  
8 that's just sort of my read of it. The other thing  
9 in here is that the complainants, the Pandering Pig  
10 Restaurant, raised an issue that the complainant's --  
11 the restaurant owners came to the hearing without  
12 counsel and they felt that they would have done  
13 better if they had showed up with counsel.

14 I think this is an ongoing challenge.  
15 We do correctly provide that we give them that  
16 information that they don't need to come with  
17 counsel, but that they can if they want and we do do  
18 that.

19 However, it is something for us to  
20 consider as we go forward because I do believe that  
21 we may be looking at, you know, some situations that  
22 perhaps making sure that folks as they move forward,  
23 if they're not providing, if they don't have counsel  
24 that knows the ins and outs is a challenge.

25 And -- and some of these may work out

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2 better for them. I don't think in this case it would  
3 have, but this was a restaurant with a billing issue  
4 during COVID, that concerned them, that I think that  
5 sort of in light of all of that, it required us to  
6 perhaps take more of a careful look in how the  
7 process worked because I feel that they feel left  
8 behind from the concerns that they had.

9 On its face, we can't do anything with  
10 what's before us, you know, so the decision has to be  
11 upheld but I do think it's something that's at least  
12 worth noting that that, you know, I'm mindful of. So  
13 I will be concurring on that item.

14 On 361, this is another consumer  
15 complaint issue. And really, initially when I looked  
16 at it, and again, I -- I understand sort of the  
17 constraint we have in dealing with this issue.

18 Here, the complainant is upset about  
19 where the utility pole was installed and raised  
20 concerns about the installing the pole between two  
21 existing poles close to the complainant's home, and  
22 there's a lot of back and forth on wanting to remove  
23 the pole and what the concerns were.

24 And these are things that I think are  
25 pretty much, you know, come -- probably comes up a

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2 lot for the utilities in terms of dealing with the  
3 challenges of pole placement, whether it's for  
4 aesthetics or perceived safety or other issues with  
5 poles, you know, on an individual basis.

6 We have a larger issue, perhaps, in  
7 times on, you know, siting the poles, et cetera.  
8 Here, we -- we can't get involved in what's really a  
9 dispute over the placement of the utility pole that's  
10 essentially an issue going into property rights and -  
11 - and I understand that.

12 And the Commission -- we don't  
13 adjudicate property rights. So the course of action  
14 would be to bring this in court rather than before  
15 the Commission if the complainant doesn't feel  
16 satisfied.

17 But I -- the reason I have an issue  
18 and I guess I raised this is, as a -- as a consumer,  
19 this case -- this is a -- this is a homeowner. There  
20 should be an understanding of what the process is,  
21 for a property owner, who has an issue with placement  
22 of a telephone pole or any similar utility asset that  
23 is on their home or near their home or their  
24 residence.

25 And I -- I recognize -- I recognize

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2 that we -- we can't get involved in this, and there's  
3 actually language in the order that points to the  
4 process a consumer could use to request a pole  
5 relocation, and it states the I.M.O., independent  
6 hearing officer stated that the complainant could,  
7 pursuant to the company's tariff, hire a licensed  
8 electrician to request a pole be relocated.

9 If they were willing to pay the cost  
10 of the work or petition of the municipality to change  
11 the approved location for the pole and I get that.  
12 It sounds tariff language, but I do think that we  
13 should be a little bit more open to helping the  
14 customer in knowing what the process is and helping  
15 them sort of work through it.

16 Because if there is a safety issue, if  
17 there is a problem, it should be looked at and taken  
18 care of. And so it just seems to me that we might be  
19 a little bit dismissive because it's a utility pole,  
20 and it's not really our issue, and work with the  
21 utility or municipality in doing that.

22 And -- and I think that for -- for  
23 some, it can be challenging to do that, and so I just  
24 raise it, because I want to make sure that people  
25 feel that their concerns are raised. Frankly, I'd

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2 like to see picture of where it is just to see, is it  
3 just an aesthetics issue, not to diminish an  
4 aesthetics issue, but, you know, just to make sure  
5 that we kind of followed the right process and that  
6 it made sense, and that, you know, there was some at  
7 least consideration of what that looks like.

8 Ultimately, the customer may have to  
9 decide whether he or she wants to pay for the  
10 movement of it or work with the municipality, but in  
11 this case, I just feel like too often, we just bump  
12 this as, well, it's not us, you know, we don't --  
13 it's a property right issue and goodbye, good luck.  
14 Maybe we need to just be a little bit more thoughtful  
15 and just taking a double check to make sure that  
16 there isn't an issue. So with that I say -- I'm  
17 going to concur on that.

18 382, I am concurring, this is the --  
19 this is dealing with implementing immediate solutions  
20 dealing with the E.V.s. And it's -- and it's the  
21 same concurrence as my 301 item.

22 385, I think is a very important item.  
23 Frankly, it would have -- I think been a good item  
24 for discussion agenda because I do think there's a  
25 lot of important information in this that's -- that I



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2 think is relevant.

3 NYSERDA brought a petition and in this  
4 petition, they sought sort of three things. They  
5 sought for us to adopt the new R.C.F. to future  
6 solicitations. They sought to require that we -- not  
7 require fixing, wanting us to fix the U.P.F. value to  
8 be aligned with working with the new -- our future  
9 I.S.O. rules, and they also wanted us to revise  
10 strike prices of past contracts they were focused on  
11 the 2022 procurement projects that were selected and  
12 were asking for us to do that.

13 So a couple of things. One, NYSERDA  
14 is making the petition unlike the October session  
15 where they did not weigh in on pending procurement  
16 contracts. And here they're asking us to revise  
17 State strike price of past contract.

18 Now, I want to make very clear what  
19 we're doing and what we're not doing. The reason  
20 they wanted us to change the pricing of past  
21 contracts is saying it's a change of law provision  
22 and that, you know, therefore, we should -- we should  
23 do that.

24 But change of law, those change of law  
25 provisions on their face, totally don't apply,

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2 because we -- they already knew about the New York  
3 I.S.O. accreditation, changes and rules. And though  
4 NYSERDA still wanted us to tweak those contracts.

5 But as I read it, the market had full  
6 awareness of the changes when they bid. And so even  
7 if we were to look at that it doesn't apply. So  
8 here, we are declining to adopt modifications to the  
9 C.E.S. tier one and offshore wind procurements prior  
10 to 2022 given the existing contract provisions that  
11 NYSERDA already utilizes as to reflect this new  
12 I.S.O. rules.

13 But as I looked further at this and  
14 what made me sort of take a double pause, if there is  
15 such a thing as a double pause, but is the NYSERDA's  
16 request for information R.F.I., released date January  
17 6th, 2023, responses were due Friday, February 17th,  
18 2023.

19 When it gives a longer ramping time  
20 for the most recent R.F.I. from NYSERDA. But on page  
21 three of this R.F.I., under background or New -- New  
22 York I.S.O. capacity accreditation rules. There's a  
23 chart here on marginal capacity value of solar and  
24 wind.

25 And as I read it and I'm looking at

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2 this chart, it shows that we need clearly from this  
3 R.F.I., we need tremendous amounts of dispatchable  
4 resources to meet peak. We need tremendous amounts  
5 of dispatchable resources to meet peak.

6 So I think the key takeaway at least  
7 as I see it, is we should as a State be shouting this  
8 from the rooftops in a very clear way, dispatchable  
9 resources are really, really important as we move  
10 forward. Reliability is really, really, really  
11 important as we move forward.

12 And I think that we are seeing that  
13 capacity resources value is going down, we're going  
14 to have to adjust or we're going to have to look at  
15 what this means. And look at, you know, working with  
16 the I.S.O. and the Reliability Council on the value  
17 of in -- in markets.

18 And the value of us being very focused  
19 on the need for dispatchable resources and  
20 reliability, and the -- the importance of that. And  
21 so, again, I flagged this because I think it's really  
22 important.

23 So 385, I will be concurring on and  
24 I'm flagging what I see as a really important issue,  
25 looking at the -- the documents. Thanks.

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2 CHAIR CHRISTIAN: Thank you.

3 Commissioner Alesi?

4 COMMISSIONER ALESI: I'll be voting  
5 yes on all issues.

6 CHAIR CHRISTIAN: Thank you.

7 Commissioner Howard.

8 COMMISSIONER HOWARD: Thank you. I  
9 just want to on -- make one comment on item 385. I  
10 do appreciate what could be viewed as a conservative  
11 approach of Staff on these issues, particularly on  
12 the request for do overs on contracting.

13 Again, the cornerstone of our entire  
14 procurement process going forward has been large as  
15 almost exclusively been on a competitive nature and  
16 when companies submit bids, yeah, we've gone through  
17 difficult times, well, that's part of the risk of  
18 markets and markets also anticipate failures.

19 And I do appreciate our approach here  
20 that we are very skeptical of do overs, but, again,  
21 that being said, I will largely -- I will support the  
22 entire agenda.

23 CHAIR CHRISTIAN: Thank you.

24 Commissioner Valesky?

25 COMMISSIONER VALESKY: No comments on

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2 any items.

3 CHAIR CHRISTIAN: Thank you.

4 Commissioner Maggiore?

5 COMMISSIONER MAGGIORE: Thank you.

6 I'm going to abstain from three items and vote no on  
7 one item. The three items I'm abstaining on are 374,  
8 378 and 379. And I'm going to cast a no vote on 164  
9 and I would like to explain why I'm casting a no vote  
10 on that item.

11 This order would authorize the  
12 proposed transfer of assets related to the delivery  
13 of natural gas from an entity regulated by this  
14 Commission to one that is not regulated by this  
15 Commission, within an area that is outside this  
16 Commission's jurisdiction.

17 I do not disagree with the long  
18 established precedent that the Public Service  
19 Commission lacks jurisdiction over Indian Nations. I  
20 do, however, believe that the C.L.C.P.A. applies to  
21 actions taken by the P.S.C. itself and that this vote  
22 should be considered an administrative approval or  
23 decision under Section 7 of the C.L.C.P.A., and  
24 therefore, should contemplate whether this action is  
25 inconsistent with or will interfere with the

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2 attainment of Statewide greenhouse gas emission  
3 limits and for that matter, whether this action will  
4 disproportionately burden disadvantaged communities.

5 I am not suggesting whether this  
6 action would do so or not in either case, but we are  
7 not considering these questions, which I believe is  
8 required by the C.L.C.P.A.

9 For that reason, I'm going to cast the  
10 no vote on this item. Other than that, I'm voting  
11 yes on everything else.

12 CHAIR CHRISTIAN: Thank you. So my  
13 vote is in favor of the recommendations on the  
14 consent agenda. Commissioner Burman, how do you  
15 vote?

16 COMMISSIONER BURMAN: I vote yes  
17 except I'm concurring on 164, 261, 361, 382 and 385.  
18 Thank you.

19 CHAIR CHRISTIAN: Thank you.  
20 Commissioner Alesi?

21 COMMISSIONER ALESI: Yes, on all  
22 items.

23 CHAIR CHRISTIAN: Thank you.  
24 Commissioner Howard?

25 COMMISSIONER HOWARD: Yes, on all

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2 items.

3 CHAIR CHRISTIAN: Thank you.

4 Commissioner Valesky?

5 COMMISSIONER VALESKY: Yes, on all

6 items.

7 CHAIR CHRISTIAN: Thank you.

8 Commissioner Maggiore?

9 COMMISSIONER MAGGIORE: Yes, on all

10 items except for 374, 378, 379, which I'm abstaining

11 from and 164, which I am voting no on.

12 CHAIR CHRISTIAN: Thank you. The

13 items are approved and the recommendations are

14 adopted. Thank you, everyone.

15 Madam Secretary, is there anything

16 further to come before us today?

17 SECRETARY PHILLIPS: There is nothing

18 further to vote on.

19 CHAIR CHRISTIAN: Thank you.

20 Appropriate wording. So before we adjourn, I'd like

21 to take a moment to share mine and -- and I know our

22 appreciation for our former colleague, Commissioner

23 Tracey Edwards, whose last session with the

24 Commission took place in October.

25 During her years with the Commission,

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2 Commissioner Tracey's extensive private and public  
3 sector knowledge, experience, and insight, help  
4 support Commission action on a wide array of topics.  
5 Our review of the D.E.I. efforts underway by the  
6 joint utilities earlier, it's just one example of the  
7 many orders which she helped shape.

8 And I personally wish to thank her for  
9 her guidance and support in bringing forward that  
10 initiating order in 2022. It's impact thus far has  
11 been commendable and I anticipate it having a lasting  
12 legacy on reinforcing the relations between utilities  
13 and the communities they serve.

14 In every discussion, in every order,  
15 Tracy's commitment to ratepayers was always on  
16 display as well as her unwavering support to the  
17 Commission's core mandates for the provision of safe,  
18 secure, and reliable access to utility service.

19 So I know I am grateful we were able  
20 to benefit from her presence on the Commission, and  
21 I'm excited that we can continue to benefit from her  
22 expertise and support as she becomes chair of the  
23 LIPA board.

24 So I want to thank again, former  
25 Commissioner Tracy Edwards for her time and we'll be



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2 putting forward a resolution to commend her and her  
3 time here and recognize it with the Commission.

4 Thank you.

5 And with that, I adjourn the meeting.

6 Thank you, everyone.

7 (The meeting adjourned at 12:54 p.m.)

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2 STATE OF NEW YORK

3 I, ANNETTE LAINSON, do hereby certify that the foregoing  
4 was reported by me, in the cause, at the time and place,  
5 as stated in the caption hereto, at Page 1 hereof; that  
6 the foregoing typewritten transcription consisting of  
7 pages 1 through 113, is a true record of all proceedings  
8 had at the hearing.

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

11

12

13 ANNETTE LAINSON, Reporter

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