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1/22/2026 - NYS PUBLIC SERVICE COMMISSION  
STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION  
2026 COMMISSION SESSION

DATE: JANUARY 22, 2026 at 10:33 a.m.  
LOCATION: AGENCY 3 BUILDING, 19TH FLOOR  
EMPIRE STATE PLAZA  
ALBANY, NEW YORK 12223

COMMISSIONERS:

- RORY M. CHRISTIAN, Chair
- COMMISSIONER JAMES S. ALESI
- COMMISSIONER DAVID J. VALESKY
- COMMISSIONER JOHN B. MAGGIORE
- COMMISSIONER UCHENNA S. BRIGHT
- COMMISSIONER DENISE M. SHEEHAN
- COMMISSIONER RADINA R. VALOVA

Reported by Winston Idada

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2 (The hearing commenced at 10:33 a.m.)

3 CHAIR CHRISTIAN: Good morning. I  
4 call this session of the Public Service Commission to  
5 order.

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

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

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

14 Commissioner James Alesi.

15 COMMISSIONER ALESI: Present.

16 CHAIR CHRISTIAN: Commissioner David  
17 Valesky.

18 COMMISSIONER VALESKY: Present.

19 CHAIR CHRISTIAN: Commissioner John  
20 Maggiore.

21 COMMISSIONER MAGGIORE: Present.

22 CHAIR CHRISTIAN: Commissioner Uchenna  
23 Bright.

24 COMMISSIONER BRIGHT: Present.

25 CHAIR CHRISTIAN: Commissioner Denise

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2 Sheehan.

3 COMMISSIONER SHEEHAN: Present.

4 CHAIR CHRISTIAN: Commissioner Radina  
5 Valova.

6 COMMISSIONER VALOVA: Present.

7 CHAIR CHRISTIAN: Thank you. Before  
8 we turn to the regular agenda, do any Commissioners  
9 wish to recuse from voting on Item 101, 201, or 301?

10 Commissioner Alesi.

11 COMMISSIONER ALESI: I do not.

12 CHAIR CHRISTIAN: Thank you.

13 Commissioner Valesky.

14 COMMISSIONER VALESKY: No recusals.

15 CHAIR CHRISTIAN: Thank you.

16 Commissioner Maggiore.

17 COMMISSIONER MAGGIORE: No recusals.

18 CHAIR CHRISTIAN: Thank you.

19 Commissioner Bright.

20 COMMISSIONER BRIGHT: No.

21 CHAIR CHRISTIAN: Thank you.

22 Commissioner Sheehan.

23 COMMISSIONER SHEEHAN: Yes. I'm  
24 recused from Item 301.

25 CHAIR CHRISTIAN: Noted. Thank you.

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2 Commissioner Valova.

3 COMMISSIONER VALOVA: No.

4 CHAIR CHRISTIAN: Thank you. We now  
5 move to the regular agenda.

6 Our first item for discussion, Item  
7 101, case 24-G-0668, and 24-G-0369, as it relates to  
8 the Liberty, St. Lawrence Gas rates and automated  
9 meter reading. It'll be presented today by Leah  
10 Amyot. Dakin Lecakes, Jeff Hogan, and Paul Darmetko  
11 are available for questions.

12 Judge. Please begin.

13 ALJ AMYOT: Good morning, Chair  
14 Christian and Commissioners. As mentioned, my name  
15 is Leah Amyot. I was assigned to preside over these  
16 proceedings, with Chief Administrative Law Judge  
17 Dakin Lecakes.

18 Item 101 is a draft order that would  
19 approve a Joint Proposal, or JP, that establishes a  
20 three-year rate plan for gas delivery service by  
21 Liberty Utilities, St. Lawrence Gas Corporation,  
22 which I will refer to as "the Company", commencing  
23 November 1st, 2025, and ending October 31st, 2028.  
24 The JP is signed by the Company, Trial Staff of the  
25 Department of Public Service, and multiple

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2     Intervenors.

3                   The only other party to these  
4     proceedings, the Utility Intervention Unit of the New  
5     York State Department of State, Division of Consumer  
6     Protection, does not oppose the JP.

7                   By way of background, the Company  
8     provides gas service to approximately 17,000  
9     customers in rural Northern New York. On June 7th,  
10    2024, the Company filed a petition in case 24-G-0369  
11    seeking authorization to implement automated meter  
12    reading throughout the Company's service territory  
13    and recovery of all costs associated with that  
14    implementation during the Company's next rate plan.

15                  The parties ultimately incorporated  
16    that petition in their settlement discussions in the  
17    Company's rate case, case 24-G-0668, which commenced  
18    on November 27th, 2024.

19                  In the rate case, the Company filed  
20    revised tariff leaves, proposing a one-year  
21    unmoderated increase in its gas revenues of  
22    approximately \$2.17 million, equivalent to 6.12  
23    percent of total revenues, or 11.45 percent of  
24    delivery revenues, for the rate year beginning  
25    November 1st, 2025.

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2                   The Company states that it proposed a  
3 one-year rate plan, but anticipated negotiating a  
4 multiyear plan. In its April 2025 rebuttal testimony  
5 the Company updated its requested base delivery  
6 revenue increase to \$2.13 million. In contrast,  
7 Staff recommended a rate year revenue requirement  
8 decrease of \$1.19 million. The parties' settlement  
9 negotiations resulted in the filing of the JP on  
10 August 29th, 2025.

11                  The JP provides that the Company's  
12 unlevelized revenue requirement will increase by  
13 approximately \$400,000 in rate year 1, \$1.88 million  
14 in rate year 2, and \$1.65 million in rate year 3,  
15 corresponding to total revenue increases of 0.9  
16 percent, 4.2 percent, and 3.5 percent, respectively.  
17 To avoid volatility and bill impacts, the JP  
18 levelizes the revenue increases, resulting in total  
19 revenue increases of \$1.06 million in rate year 1,  
20 \$1.09 million in rate year 2, and \$1.12 million in  
21 rate year 3, or 2.4 percent per year. Accounting for  
22 the make-whole provision, the monthly bill increases  
23 for a residential customer using an average of  
24 eighty-one therms per month, are \$3.78, or 4.3  
25 percent for the remainder of rate year 1; \$3.24, or

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2    3.5 percent for year 2; and \$3.58, or 3.8 percent for  
3    rate year 3.

4           The total bill impact on residential  
5    customers is an increase of approximately 10.7  
6    percent over the course of the three-year rate plan,  
7    which is less than the 11.3 percent bill increase  
8    initially proposed by the Company for rate year 1  
9    alone.

10           The total bill impact over the term of  
11   the rate plan on other service classes is 9.6 percent  
12   on commercial sales customers, four percent on large  
13   commercial sales customers, and 8.2 percent on  
14   industrial transport customers. The agreed return on  
15   equity, or ROE, is 9.3 percent, although the 9.3  
16   percent ROE is higher than the 9.2 percent ROE  
17   approved in the prior rate plan is much closer to the  
18   9.25 percent recommended by Staff, than the 9.9  
19   percent requested by the Company.

20           The increase in the ROE above Staff's  
21   recommendation reflects the additional business and  
22   financial risks inherent in a multiyear agreement.  
23   The Staff Finance Panel explained in its testimony  
24   that the ten basis point change in ROE, as compared  
25   to that approved in the prior rate plan, is worth

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2 approximately \$26,000.

3 The JP also recommends a common equity  
4 ratio of forty-six percent in rate year 1, forty-  
5 seven percent in rate year 2, and forty-eight percent  
6 in rate year 3. The common equity ratio approved in  
7 the prior rate plan was forty-eight percent.

8 Staff provided testimony that each one  
9 percent change in the common equity ratio is worth  
10 approximately \$33,000. Staff sought a lower common  
11 equity ratio for rate years one and two than the  
12 forty-eight percent approved in the prior rate plan,  
13 due to the Company's historical failure to maintain  
14 that ratio. The common equity ratio increases over  
15 the term of the rate plan in order to provide the  
16 Company with a stronger equity base that will allow  
17 it to finance its rising investment needs, without  
18 the increased risk inherent in overreliance on debt.

19 At the same time, the common equity  
20 ratio is subject to downward reconciliation in rate  
21 year 2 and rate year 3 to incentivize the Company to  
22 effectively manage its capital structure and to  
23 protect ratepayers from paying for a common equity  
24 ratio that the Company may not achieve.

25 Should the Company achieve excess

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2 earnings, the JP contains an earnings sharing  
3 mechanism. Under the terms of that mechanism,  
4 customers will share in fifty percent of any actual  
5 earnings the Company records between 9.8 percent and  
6 10.3 percent. Between 10.3 percent and 10.8 percent,  
7 the customer's share is eighty percent, and for  
8 earnings that exceed 10.8 percent, the customer's  
9 share is ninety percent.

10           The earnings' sharing mechanism is  
11 designed to encourage the Company to find  
12 efficiencies, but also to ensure that customers do  
13 not fund excessive company earnings. The rest of the  
14 JP's terms provide for a standard rate plan and  
15 implementation of automated meter reading. The  
16 primary rate drivers include the impact of increased  
17 net plant and depreciation, the amortization of  
18 regulatory deferrals, implementation of automated  
19 meter reading at a cost of \$4.12 million, increased  
20 operation and maintenance expenses, particularly  
21 labor costs and property taxes, which are increasing  
22 at a rate of approximately ten percent per year.

23           The JP includes a capital budget of  
24 \$6.06 million for rate year 1, 13.41 million for rate  
25 year 2, and \$10.66 million for rate -- in rate year

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2 3. The majority of the capital spending increases  
3 are related to implementation of automated meter  
4 reading, cybersecurity, and four gas system  
5 reliability projects.

6 The JP includes several deferral  
7 mechanisms that protect ratepayers in the event that  
8 the Company does not spend the amounts approved by  
9 the Commission. In addition to the downward-only  
10 reconciliation associated with the common equity  
11 ratio in rate year 2 and rate year 3 mentioned  
12 earlier, the JP includes a downward-only net plant  
13 reconciliation mechanism, except for downward-only  
14 mechanisms for spending related to cybersecurity,  
15 automated meter reading, and system reliability  
16 project.

17 Having reviewed the evidence compiled  
18 in these proceedings, it is our view that the  
19 participating parties thoroughly examined the  
20 Company's proposed capital expenditures, and that the  
21 budgets reflected in the JP fall within the range of  
22 possible outcomes that could have resulted following  
23 a fully litigated case.

24 We note that as an additional  
25 safeguard, the JP has gas safety performance targets,

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2       which encourage the Company to increase system  
3       reliability and safety. The JP maintains the  
4       performance metrics and associated revenue  
5       adjustments that were established in the 2023 Rate  
6       Order for emergency response, damage prevention, leak  
7       management, and Pipeline safety regulatory  
8       compliance.

9           The JP exposes the Company to a risk  
10       of incurring total negative revenue adjustments of  
11       138 basis points annually for failing to meet the  
12       agreed-upon performance standards, and it provides  
13       the Company with the opportunity to earn a maximum of  
14       sixteen basis points annually in positive revenue  
15       adjustments for exceeding metric target levels.

16           In addition, the JP supports the  
17       addition of two full time employees to focus on  
18       pipeline safety management, and provides that the  
19       Company will continue its residential methane  
20       detector and first responder training programs.

21           With respect to customer service, the  
22       JP continues the customer service performance  
23       indicators and targets currently in place, namely, a  
24       risk of incurring total negative revenue adjustments  
25       of thirty basis points annually for failure to

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2 maintain an adequate complaint rate per 100,000  
3 customers, and the overall customer satisfaction  
4 rate.

5           At Staff's recommendation. The JP  
6 also imposes a new requirement that the Company  
7 credit a customer \$25 if the Company misses an  
8 appointment at the customer's premises.

9           The JP also continues the Company's  
10 four-tiered bill discount program for eligible low-  
11 income customers, providing a budget of \$574,000 in  
12 rate year 1, \$626,000 in rate year 2, and \$706,000 in  
13 rate year 3 for the program. The JP requires the  
14 Company to make enhanced outreach and education  
15 efforts to increase enrollment in its low-income  
16 program, as well as expanding access for customers  
17 with limited English proficiency.

18           The JP provides that the Company will  
19 also offer levelized payment plans to its residential  
20 customers, and the JP directs the Company to launch  
21 an arrearage management program designed to support  
22 low-income residential customers who are behind on  
23 their utility bills.

24           Finally, the adoption of the rate plan  
25 detailed in the JP will not interfere with the

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2 attainment of the CLCPA's greenhouse gas emission  
3 reduction goals, nor will it disproportionately  
4 burden disadvantaged communities. The JP contributes  
5 to the goals of the CLCPA by limiting the  
6 environmental impact of the utility service provided  
7 by the Company, as it fulfills its legal mandate to  
8 provide safe and adequate service to its customers.

9           Specifically, the JP provides that the  
10 Company will continue its behavioral demand response  
11 and energy efficiency programs, and its annual  
12 greenhouse gas emissions reporting. It permits the  
13 Company to seek review of green tariffs, through  
14 which customers may purchase renewable natural gas  
15 generated in state, and to seek authorization of any  
16 future proposed green hydrogen projects.

17           It ensures that the Company will  
18 extend service only to applicants beyond that  
19 required by law, only after the Commission approves  
20 cost recovery upon a petition that has been noticed  
21 for public comment, and it requires the Company to  
22 modify its capital planning process and reporting to  
23 improve its opportunities to implement nonpipe  
24 alternatives for areas of pressure concern.

25           In conclusion, in establishing a gas

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2 rate plan, the Commission must find that the proposed  
3 rates assure the continuation of safe and adequate  
4 service at just and reasonable rates, and produce a  
5 result that is in the public interest.

6           Based on a thorough evaluation of the  
7 record, we believe that the provisions of the JP meet  
8 these requirements. The rate plan set forth in the  
9 JP appropriately balances affordability concerns with  
10 the Commission's obligation to ensure that the  
11 Company has adequate revenue to deliver safe and  
12 reliable service at just and reasonable rates, and  
13 will be able to meet the regulatory and statutory  
14 requirements imposed on it.

15           The terms of the JP represent a  
16 reasonable compromise and are consistent with the  
17 environmental, social and economic policies of the  
18 Commission and the State.

19           That concludes our presentation, and  
20 we are available for any questions you may have.

21           CHAIR CHRISTIAN: Thank you. Judge, I  
22 appreciate the presentation and the Staff involved,  
23 all the work in bringing this to the Commission  
24 today. You know, I look at this case with our --  
25 considering both gas and electric rate proposals,

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2           that I see it as reflective of the Commission's  
3           responsibility to provide safe and adequate service  
4           at just and reasonable rates, and to do so while  
5           grounding our actions in the physical and technical  
6           realities of the energy systems, and recognizing that  
7           we reasonably evolve over time to take into  
8           consideration the new realities as they present  
9           themselves.

10                         Now, I think about the Commission's  
11           historical actions, the recently approved State  
12           energy plan, and I consider the words of Governor  
13           Kathy Hochul, and I look at this as akin to an all of  
14           the above energy strategy, where we focus our  
15           attention on resources we have, providing them to the  
16           customers and ratepayers who need them.

17                         This approach is something that we can  
18           pursue to reduce emissions while avoiding reliability  
19           challenges and potential unintended consequences.  
20           Consequences that could disrupt local economies and  
21           communities and undermine the very transition we're  
22           endeavoring to advance.

23                         So I see this proposed investment, as  
24           you pointed out, and done the work on to bring to us  
25           today as aligned in the public interest. I support

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2 it. And I thank you for your work in bringing it to  
3 us today. Thank you.

4 Commissioner Alesi.

5 COMMISSIONER ALESI: Thank you,  
6 Chairman. Good job all around, very thorough. And I  
7 think that I'll be supporting this. I just want to  
8 make sure I thank you for the large print, by the  
9 way. I'll be voting, yes, on this item.

10 CHAIR CHRISTIAN: Thank you.

11 Commissioner Valesky.

12 COMMISSIONER VALESKY: Thank you,  
13 Judge Amyot, Judge Lecakes, and DPS Staff who worked  
14 on this order. I agree with you. I find it in the  
15 public interest and will be supporting it.

16 Just one quick question, Paul or Jeff,  
17 and I feel like there's probably a pretty  
18 straightforward and obvious answer that I'm not  
19 thinking of, so I'll ask the question. Judge Amyot  
20 noted that one of the cost drivers of this rate case  
21 were property taxes, and I have a feeling we'll have  
22 thoughts later on in this session about property  
23 taxes.

24 Judge, you indicated that -- are  
25 increasing the rate of approximately ten percent per

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2    year.  So whereas, the City of New York does not have  
3    a property tax cap, the rest of the state does.  So  
4    I'm missing something in terms of how property taxes  
5    could increase at about ten percent a year when St.  
6    Lawrence County, and I don't know if there are other  
7    counties that is served by St. Lawrence Gas, clearly  
8    fall under the property -- the state property tax cap  
9    statute.

10                   MR. HOGAN:  Sure.  I'm sure they do.  
11    And I'm sure that their increases may be in the low  
12    single digits in terms of the rate per dollar of  
13    plant.  The issue here is that the amount of plant is  
14    increasing.  So we have making up numbers here, if  
15    you have \$1 million invested, and the following rate  
16    year you have \$1.1 million invested, you're going to  
17    have property tax in a larger base.  And so I think  
18    we're talking about total dollars of property tax  
19    money so if you had that in that million-dollar  
20    example, there was a five percent tax rate on that,  
21    you'd be talking about \$50,000, if it went to 1.1  
22    million, you talk about 55,000.

23                           So I think it's a combination of  
24    factors.  Partially the rate per dollar of assessed  
25    value going up, but the larger impact would be from a

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2 growth -- the growth in CapEx.

3 Paul, is there anything you wanted to  
4 add to that or say?

5 MR. DARMETKO: No, thank you.

6 COMMISSIONER VALESKY: Okay. So it  
7 would not be a result of the local governments that  
8 are overriding the tax cap, which obviously that's in  
9 the statute as well.

10 MR. HOGAN: It does happen, and it  
11 does happen on occasion. It just doesn't happen with  
12 the frequency that would raise the whole -- we're  
13 talking about multiple jurisdictions within the  
14 service territory.

15 COMMISSIONER VALESKY: Right.

16 MR. HOGAN: Towns, schools, et cetera.  
17 They are all doing that, I'm certain. And I think I  
18 would have -- I can't state with absolute certainty,  
19 but I'm pretty positive that that's not the case.

20 COMMISSIONER VALESKY: Okay. Okay.  
21 No further questions. Thank you.

22 MR. HOGAN: Okay.

23 CHAIR CHRISTIAN: Thank you.

24 Commissioner Maggiore.

25 COMMISSIONER MAGGIORE: Thank you. So

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2 I just have a couple questions. So as I review this  
3 order in the JP it would enact, it appears to me that  
4 almost all the costs we would allow recovery for are  
5 based on the Commission's obligation to ensure that  
6 the Company has adequate revenue to meet the  
7 regulatory and statutory requirements imposed on it.  
8 I don't really see much room to reduce discretionary  
9 costs.

10 Can you expand on what some of the  
11 major regulatory and statutory requirements are  
12 behind the State's -- behind this rate plan?

13 ALJ LECAKES: Good morning,  
14 Commissioner. I'll take that. So basically, the  
15 regulatory and statutory requirements that are  
16 applicable to the utility are everything that covers  
17 utilities' operations. Primarily for this gas  
18 company they're found in Article 4 of the Public  
19 Service Law and the Commission's Regulations at 16  
20 NYCRR Chapter III.

21 But they also apply to everything that  
22 it does, more broadly, paying taxes, hiring  
23 practices, employment and labor practices,  
24 environmental compliance regulations, things like  
25 that. And so all of those things have cost component

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2           that adds in to making up the rates of the Company.

3                       COMMISSIONER MAGGIORE:   Okay.   Thank  
4           you.   My second, and I think last question, at the  
5           risk of paraphrasing the presentation.   The Joint  
6           Proposal will contribute to the goals of the CLCPA by  
7           limiting the environmental impact of the utility  
8           service provided by the Company.   My question is,  
9           have any of these limitations been imposed upon the  
10          Company as a result of the negotiation process, or in  
11          this respect, the JP simply reflects what the Company  
12          proposed in the first place?

13                      ALJ AMYOT:   No.   The JPA does not  
14          reflect what the Company proposed in the first place.  
15          And yes, there were limitations that were imposed as  
16          a result of the negotiation process.   The main  
17          aspects that were cut as a result of the negotiation  
18          were gas main extensions, so extensions to new  
19          customers.   And I believe the Company proposed ten  
20          new extensions and only one is being allowed.   So  
21          that has led to a significant reduction in -- in CO2  
22          emissions, approximately 11,000 metric tons per year.  
23          So that is the main -- the main way that negotiation  
24          is reduced.

25                      COMMISSIONER MAGGIORE:   Beautiful.

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2 Okay. Thank you very much. Thank you, those satisfy  
3 my questions, and I will be supporting this item.  
4 Thank you for the presentation and the good work.

5 CHAIR CHRISTIAN: Thank you.

6 Commissioner Bright.

7 COMMISSIONER BRIGHT: Thank you,  
8 Chairman. And thank you, Judge Amyot.

9 You covered a variety of the  
10 performance metrics around safety, and reliability,  
11 and customer service and some of the penalties that  
12 are associated with those. I also saw in this JP  
13 that -- and correct me if I'm wrong, that some of the  
14 previous NRAs went to offset the residential methane  
15 detector program; is that right?

16 ALJ AMYOT: That's correct.

17 COMMISSIONER BRIGHT: Yeah. That's  
18 great. And it would be interesting to -- I'm not  
19 sure if we see that during our regular summer reports  
20 on our performance metrics, but that is a very  
21 interesting sort of -- it's interesting to be able to  
22 see sort of where these NRAs sort of go and what the  
23 results and the offset -- the ways that they offset  
24 costs.

25 And there was also some back and forth

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2           on incentive compensation. And I was wondering if  
3           you could -- it's described in the order, but just if  
4           you could go over the specific adjustments that were  
5           made there that ensured that the incentive  
6           compensation aligns with Commission policy.

7                       ALJ AMYOT: Sure. Well, initially  
8           the, the Company requested approximately \$531 in  
9           incentive compensation in connection with its direct  
10          labor expenses. And the concern was that some of  
11          that was going to pay for services that may not have  
12          had really anything to do with Liberty Gas. You  
13          know, could have something to do with Liberty Water,  
14          for example.

15                       So there was, initially Staff  
16          recommended excluding that compensation altogether.  
17          Then there was an order in the Liberty Water case and  
18          after that Staff -- but the Company reworked its  
19          program, and Staff took a look at it, and they wanted  
20          to make sure that compensation was included only to  
21          the extent that it was tied to the Company's  
22          operational performance and safety, reliability,  
23          customer service, and environmental related areas.  
24          So that any compensation would go to efforts that  
25          were directly benefiting the Company's customers.

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2 Now. Staff in the Company represent  
3 that the JP does not allow cost recovery for any  
4 incentive compensation based on the performance of  
5 affiliates of Liberty's parent company. And that  
6 that resulted in the reduction of the 531,000 to  
7 168,000. So it was reduced by 363,000 altogether to  
8 make sure that it was only benefiting the Company's  
9 customers.

10 COMMISSIONER BRIGHT: Okay. Thank you  
11 for that. So targets tied to -- directly tied to  
12 customer benefits?

13 ALJ AMYOT: Yes.

14 COMMISSIONER BRIGHT: So thank you.  
15 When we go over these rate cases it's clear that  
16 there is a cost to do business, and then that cost  
17 can cover so many things depending on the utility and  
18 their systems. But many times we're talking  
19 equipment, taxes, employment, local labor, machinery,  
20 moving parts, and the expertise to manage and  
21 maintain all these moving parts, not just for the  
22 machinery, but also the moving parts to operate a  
23 business, even through emergencies, continued growth,  
24 and system strain.

25 So I think it's important that we --

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2           and I think it's also important that we recognize the  
3           expectation on the customer side, and expectation of  
4           performance, of safe and reliable service, and an  
5           expectation of least costs and the efficient use of  
6           ratepayer dollars. Finding ways to measure how  
7           companies are doing at meeting these expectations,  
8           provides insights, and uncover risk, and identify  
9           opportunities, which can create lasting value to  
10          ratepayers.

11                        So I really appreciate the focus in  
12          this, JP to better align the Company's plans with  
13          customer focused outcomes. So thank you, Judge  
14          Amyot. And that's it from me.

15                               CHAIR CHRISTIAN: Thank you.

16                               Commissioner Sheehan.

17                               COMMISSIONER SHEEHAN: Thank you,  
18          Chair. Thank you, Judge Amyot, and Judge Lecakes,  
19          and to all the Staff who worked on this case. I know  
20          that even the small utilities take a lot of time.

21                               And I just -- a couple of things I  
22          want to highlight. First, I do want to point out  
23          that the JP continues the Company's bill discount  
24          program for eligible low-income customers. I think  
25          that's going to be especially critical in this part

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2   of -- in this utility territory in this part of the  
3   state. So I'm grateful that that's continued, and  
4   that the Company is required to enhance their  
5   education and outreach efforts. So I do want to flag  
6   that as I think, an important component of the JP.

7           The other thing I did want to just  
8   highlight and maybe, not sure if I have a question, I  
9   guess I want to just confirm my understanding.

10           So Commissioner Valesky and I had  
11   the -- had the privilege of actually going on a field  
12   trip to see some projects in Liberty's territory,  
13   specifically RNG. And you know, sometimes it really  
14   does help to get out into the field and see what's  
15   actually happening.

16           And what it really did in terms of  
17   speaking for you, too, Commissioner Valesky, was  
18   highlight the relationship between, you know, the  
19   community, the economic benefits that come from  
20   generating RNG at a dairy farm in St. Lawrence County  
21   and how that gas has been used by the local utility  
22   and helps to support cost, lower cost gas for the  
23   customers.

24           I just want to -- so I know we're  
25   making some changes as part of the JP about how those

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2 projects are financed to make sure that the risk is  
3 on the developer, which I agree with, that when you  
4 did your presentation, you mentioned the Company --  
5 in permits the Company to seek review of green  
6 tariffs through which customers may purchase  
7 renewable natural gas generated in-state.

8           I just want to make sure I understand  
9 what that means, or if that's just basically the same  
10 thing that we've already talked that might --  
11 confirms my understanding.

12           MR. DARMETKO: I think you were given  
13 a response to this question prior to, I think, right?  
14 So I think it's confirming your understanding --

15           COMMISSIONER SHEEHAN: Yes.

16           MR. DARMETKO: -- that the Company can  
17 petition the Commission to --

18           COMMISSIONER SHEEHAN: To make a  
19 change.

20           MR. DARMETKO: -- to make a filing, to  
21 make a change to their tariff.

22           COMMISSIONER SHEEHAN: Okay.

23           MR. DARMETKO: To be able acquire the,  
24 I'll say the environmental attributes if the  
25 customers seek it out.

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2 COMMISSIONER SHEEHAN: Okay. That's  
3 helpful. Great. So the bottom line is that the  
4 Company's commitment to doing RNG in-state is not  
5 undermined at all by the JP, which is the thing that  
6 I mostly cared about.

7 MR. DARMETKO: Yeah. That's correct.

8 COMMISSIONER SHEEHAN: Okay. And  
9 again because I do see and you see the benefits  
10 directly of these projects when you visit and you see  
11 the relationship between the farm, the developer and  
12 the Company, and ultimately to the customer. So I  
13 wanted to review that one more time for the record.  
14 So thank you.

15 I do agree that the JP is consistent  
16 with our guidelines for agreeing to a settlement for  
17 reviewing a settlement and that it does continue safe  
18 and reliable service at just and reasonable rates.  
19 So I will be supporting it. Thank you.

20 CHAIR CHRISTIAN: Thank you.

21 Commissioner Valova?

22 COMMISSIONER VALOVA: Thank you.

23 So -- thank you, Judge Amyot for the presentation,  
24 for Staff's work, for all the stakeholders who  
25 participated. I will also be supporting the Joint

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2           Proposal or the order adopting the Joint Proposal.  
3           Commissioner Sheehan stole my question.  
4                    COMMISSIONER SHEEHAN: Oh, I'm sorry.  
5                    COMMISSIONER VALOVA: But thank you.  
6           So I have the answer. I want to also echo  
7           Commissioner Bright's appreciation for the emphasis  
8           in the Joint Proposal on -- I think she said it very  
9           well, better aligning the Company's plans with direct  
10          benefits to ratepayers. So with that, I will  
11          support. Thank you.  
12                   CHAIR CHRISTIAN: Thank you.  
13                   Now, I'll conduct a call for a vote.  
14          My vote is in favor of the recommendation contained  
15          in the draft order as discussed.  
16                   Commissioner Alesi, how do you vote?  
17                   COMMISSIONER ALESI: Yes.  
18                   CHAIR CHRISTIAN: Thank you.  
19                   Commissioner Valesky?  
20                   COMMISSIONER VALESKY: Yes.  
21                   CHAIR CHRISTIAN: Thank you.  
22                   Commissioner Maggiore?  
23                   COMMISSIONER VALESKY: Yes.  
24                   CHAIR CHRISTIAN: Thank you.  
25                   Commissioner Bright?

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2 COMMISSIONER BRIGHT: Yes.

3 CHAIR CHRISTIAN: Thank you.

4 Commissioner Sheehan?

5 COMMISSIONER SHEEHAN: Yes.

6 CHAIR CHRISTIAN: Thank you.

7 And Commissioner Valova?

8 COMMISSIONER VALOVA: Yes.

9 CHAIR CHRISTIAN: Thank you.

10 The item is approved and the  
11 recommendations are adopted. Thank you, everyone.

12 Now, we begin moving to our second  
13 item for discussion today. Item 201, case 25-E-0072  
14 and 25-G-0073, as it relates to Con Edison electric  
15 and gas rates.

16 It'll be presented today by Nicholas  
17 Planty. Tara Kersey, Judge James Costello, Dakin  
18 Lecakes, Jim (sic) Canty and Mike Rieder are  
19 available for questions and will begin momentarily.

20 Thank you, everyone.

21 Judge Planty, please begin.

22 ALJ PLANTY: Thank you. Good morning,  
23 Chair and Commissioners. As mentioned, my name is  
24 Nicholas Planty. I was assigned to preside over  
25 these proceedings with Administrative Law Judges

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2 James Costello and Tara Kersey, who are here with me  
3 this morning.

4           Item 201 is a draft order that would  
5 approve a Joint Proposal that establishes electric  
6 and gas delivery rate plans for Consolidated Edison  
7 Company of New York, Inc., which I will refer to as  
8 Con Edison or the Company, for a three-year period  
9 from January 1st, 2026, through December 31st, 2028.  
10 The Joint Proposal is signed by Con Edison, trial  
11 Staff of the Department of Public Service, the City  
12 of New York, Alliance for a Green Economy, Consumer  
13 Power Advocates, Electrify America, LLC,  
14 Environmental Defense Fund, National Railroad  
15 Passenger Corporation, also known as Amtrak, New York  
16 Energy Consumers Council, Inc., New York Geothermal  
17 Energy Organization, Retail Energy Supply  
18 Association, and the New York Power Authority.

19           The following parties are not opposing  
20 the Joint Proposal. Metropolitan Transportation  
21 Authority, or MTA, Public Utility Law Project of New  
22 York, the Utility Intervention Unit of the New York  
23 State Department of State's Division of Consumer  
24 Protection, New Yorkers for Clean Power and the  
25 Westchester Municipal Consortium, which is a group of

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2    40 Westchester municipalities. Natural Resources  
3    Defense Council takes no position on the Joint  
4    Proposal.

5           The Joint Proposal is opposed by  
6    Westchester County and New York State Assembly  
7    members Chris Burdick, Dana Levenberg, and MaryJane  
8    Shimsky, collectively, individual Intervenors, Roger  
9    Caiazza, Richard Ellenbogen, and Francis Menton,  
10   collectively, who I will refer to as the individual  
11   Intervenors, New York State Senator Robert Jackson  
12   and UtiliSave, LLC.

13           See slide 2. Con Edison initiated  
14   these cases on January 31st, 2025, by filing new  
15   tariff leaves. After Con Edison submitted updates  
16   and corrections, Con Edison saw increases to its base  
17   electric delivery revenues of approximately \$1.6  
18   billion, and to base gas delivery revenues of  
19   approximately \$349 million. Thereafter, pursuant to  
20   our procedural schedule, various parties, including  
21   Trial Staff, filed responses and rebuttal testimony.  
22   Con Edison filed a notice of impending settlement  
23   negotiations on June 24th, 2025.

24           Negotiations ultimately resulted in  
25   the Joint Proposal, which was filed November 5th,

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2    2025. We conducted an evidentiary hearing on the  
3    Joint Proposal on December 3rd, 2025. At the  
4    hearing, we admitted evidence consisting of, among  
5    other things, one -- over 1,240 exhibits, testimony  
6    on the Joint Proposal by UtiliSave, testimony  
7    regarding Con Edison's most recently completed  
8    operations management audits, and testimony on cross-  
9    examination of a panel consisting of various  
10   witnesses for the Company and DPS Staff. Various  
11   briefs were filed before and after the hearing.

12                   Con Edison initially requested a  
13   single year increase to base electric delivery  
14   revenues of approximately \$1.6 billion, and to base  
15   gas delivery revenues of approximately \$440.5  
16   million. In response, Trial Staff had recommended an  
17   increase to base electric delivery revenues of  
18   approximately \$411.87 million and a decrease to base  
19   gas delivery revenues of approximately \$15.22  
20   million. Con Edison also provided projected revenue  
21   increases for rate year 2, and rate year 3 for  
22   consideration if this case entered settlement  
23   negotiations.

24                   The Company projected additional  
25   increases of \$932 million to base electric delivery

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2 revenues and \$266 million to base gas delivery  
3 revenues in rate year 2 and \$880 million to base  
4 electric delivery revenues, and \$166 million to base  
5 gas revenues in rate year 3. The Joint Proposal,  
6 after shaping the year over year revenue requirement  
7 increases to reduce bill volatility in any single  
8 rate year, recommends electric delivery service  
9 revenue increases of \$234 million, which is 4.4  
10 percent delivery, or 2.8 percent total revenues in  
11 rate year 1. \$409.7 million, which is 4.4 percent  
12 delivery, or 2.8 percent total revenues in rate year  
13 2, and \$421.1 million, which is 4.2 percent delivery,  
14 or 2.8 percent total revenues in rate year 3.

15           See slide 3. After shaping, the Joint  
16 Proposal recommends revenue requirement increases for  
17 gas delivery service of \$27.5 million, which is 2.8  
18 percent delivery, or 2.0 percent total revenues in  
19 rate year 1. \$68.8 million, which is 2.8 percent  
20 delivery, or 2.0 percent total revenues in rate year  
21 2. And \$70.3 million, which is 2.8 percent delivery,  
22 or 2.0 percent total revenues in rate year 3.

23           See slide 4. For context, the record  
24 shows projected overall inflation rates of 2.4  
25 percent during rate year 1, 2.2 percent during rate

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2   year 2 and 2.1 percent during rate year 3. This  
3   information shows that the total electric revenue  
4   increases of 2.8 percent per rate year are near the  
5   projected rates of inflation, and the total gas  
6   revenue increases of 2.0 percent per rate year are  
7   below the projected rates of inflation.

8                   If adopted, the Joint Proposals  
9   increases will result in residential electric bills  
10  for a typical New York City customer using 280  
11  kilowatt hours per month, increasing by \$4, which is  
12  5.3 percent delivery, or 3.9 percent total bill in  
13  rate year 1. \$3.55, which is 4.5 percent delivery or  
14  3.3 percent total bill in rate year 2. And \$3.58,  
15  which is 4.3 percent delivery, or 3.2 percent total  
16  bill in rate year 3.

17                   For a typical residential Westchester  
18  electric customer using 425 kilowatt hours per month.  
19  The electric bill will increase by \$5.25 -- and  
20  \$0.27, which is 5 percent delivery or 3.6 percent  
21  total bill in rate year 1. \$4.94, which is 4.5  
22  percent delivery, or 3.3 percent total bill in rate  
23  year 2. And \$4.95, which is 4.3 percent delivery, or  
24  3.2 percent total bill in rate year 3.

25                   As shaped the residential gas bill for

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2     a typical heating customer, using one hundred therms  
3     per month will increase by \$5.73, which is 3.1  
4     percent delivery, or 2.4 percent total bill in rate  
5     year 1. \$19.32, which is 10.2 percent delivery, or  
6     7.8 percent total bill in rate year 2. And \$15.08,  
7     which is 7.2 percent delivery, or 5.6 percent total  
8     bill in rate year 3.

9           These bill impacts include the effect  
10    of the Joint Proposals one month make whole provision  
11    as the first rate year begins as of January 1st,  
12    2026. The cumulative electric revenue increase over  
13    the three-year term of the electric rate plan is  
14    driven in large part by the revenue requirement  
15    impact of adding \$724 million to the Company's net  
16    plant and service, and associated depreciation. \$306  
17    million in property tax expenses, \$186 million in  
18    pension and other post-employment benefits costs, and  
19    \$113 million from changes in the Company's capital  
20    structure, primarily due to the increase to the  
21    return on equity, or ROE, from 9.25 percent in the  
22    previous rate plans to 9.4 percent in the Joint  
23    Proposal.

24           The cumulative electric revenue  
25    increases also reflect revenue requirement offsets,

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2       such as decreases by \$98 million and other operating  
3       revenues, and \$302 million for the amortization of  
4       customer credits, and an increase of \$193 million in  
5       net sales revenues, which decreases the revenue  
6       requirement.

7                       Notably, expected increases to Con  
8       Edison's property taxes alone account for  
9       approximately twenty-six percent of the electric  
10      revenue requirement.

11                      See slide 5. To assist customers  
12      facing utility bill increases, the electric revenue  
13      requirements incorporate several measures to mitigate  
14      rates and address energy affordability. The Joint  
15      Proposal holds electric depreciation expense at rate  
16      year 1 levels for all three rate years, and limits  
17      recovery of reserve deficiencies, which reduce  
18      electric revenue requirement by \$143.5 million in  
19      rate year 1, \$111.1 million in rate year 2, and \$154  
20      million in rate year 3.

21                      The parties have included productivity  
22      adjustments in the Joint Proposal of three percent in  
23      rate year 1 and two percent in each of rate year 2  
24      and rate year 3, which has reduced the cumulative  
25      electric revenue requirements by \$124.8 million. In

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2 addition, the parties have offset part of the revenue  
3 requirement increases by applying an existing  
4 unbilled revenue regulatory liability to further  
5 reduce the cumulative electric revenue requirements  
6 by \$250 million.

7 Drivers of the cumulative gas revenue  
8 requirement increase include the addition of \$189  
9 million in infrastructure to net plant and  
10 depreciation, \$35 million in expected property tax  
11 increases, \$42 million for expected decreases in net  
12 sales revenues, \$421 million for increases in  
13 operations and maintenance or O&M expenses. \$36  
14 million from the changes in the Company's ROE and \$25  
15 million for labor and benefits expenses.

16 The cumulative total increase also  
17 reflects revenue requirement offsets, such as  
18 decreases of \$26 million and other rate base and \$69  
19 million from the amortization of customer credits,  
20 and an increase of \$58 million in other operating  
21 revenues, which decreases the revenue requirement.

22 Similar to the electric revenue  
23 requirement increases, property tax expense increases  
24 account for approximately twenty-two percent of the  
25 gas revenue requirements.

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2 See slide 6. The gas revenue  
3 requirements incorporate the same measures applied to  
4 the electric revenue requirements to mitigate rates  
5 and address energy affordability. By holding the gas  
6 depreciation expense at rate year 1 levels for all  
7 three years and limiting recovery of reserve  
8 deficiencies, the Joint Proposal reduced the gas  
9 revenue requirements by \$59.6 million over rate year  
10 1, \$25.1 million in rate year 2 and \$23.3 million in  
11 rate year 3.

12 The productivity adjustments  
13 incorporated into the Joint Proposal reduce the  
14 cumulative gas revenue requirements by \$31.7 million,  
15 and the application of customer credits for unbilled  
16 revenues reduce the cumulative gas revenue  
17 requirements by \$140 million.

18 Senator Jackson, as well as  
19 Westchester County and Assembly members Burdick,  
20 Levenberg, and Shimsky, opposed the Joint Proposals,  
21 revenue and corresponding bill increases. However,  
22 the Joint Proposals' opponents do not identify nor  
23 provide evidence on any specific capital  
24 expenditures, O&M expenses, or other expenses that  
25 could be reduced to achieve lower rates without

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2     impairing the Company's ability to provide safe,  
3     adequate and reliable service.

4           The record demonstrates that the Joint  
5     Proposals Revenue increases are necessary to provide  
6     sufficient funding for Con Edison to continue to meet  
7     projected increases in electric demand, maintain its  
8     electric and gas systems, operate those systems  
9     safely, and to deliver reliable essential services to  
10    customers while meeting State and Commission  
11    policies.

12           The opponents criticized the Joint  
13    Proposal's inclusion of a 9.4 percent return on  
14    equity. Although the 9.4 percent ROE is the product  
15    of a settlement compromise, it falls within the range  
16    of the 10 percent proposed by the Company and is much  
17    closer to the 9.3 percent recommended by Trial Staff  
18    for a single year rate limit.

19           In addition, the record shows that the  
20    ROE reasonably balances the return requirements of  
21    Con Edison investors with its customers' expectations  
22    of safe and reliable service at just and reasonable  
23    rates, and that the multi-year rate plans will  
24    provide relative predictability and stability to Con  
25    Edison's operations and its customers.

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2                   The Joint Proposal's ROE reflects the  
3 economic conditions at the time the parties entered  
4 into the agreement, provides for the constitutionally  
5 required opportunity for a utility to earn a fair  
6 return on its prudently incurred infrastructure  
7 investments used to serve the public, accounts for  
8 the financial risk associated with multiyear plans,  
9 and compares favorably to the Commission's recent  
10 adoption of three year rate plans for Central Hudson  
11 and National Grid in August 2025, that provided for a  
12 9.5 percent ROE in both cases.

13                   Notably, the 9.4 percent ROE allowed  
14 in the Joint Proposal continues the trend that New  
15 York's allowed ROE for investor-owned utilities  
16 remains lower than the national average ROE.

17                   See slide 7 and 8. We will now  
18 address other arguments made in opposition to the  
19 Joint Proposal.

20                   The Joint Proposal expands and extends  
21 a one year price guarantee to residential ground  
22 source heat and residential air source heat pump  
23 customers who enroll in either an optional demand-  
24 based rate or an optional seasonal time of use rate.  
25 The individual Intervenors object to the provision,

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2     claiming that it acts as a loss leader to entice  
3     customers to a rate that will cost more in the long  
4     run.

5           The opponents also criticize the Joint  
6     Proposal for not specifying what happens after the  
7     one year guarantee expires. The record shows,  
8     however, that the individual Intervenors  
9     mischaracterized the provision, which essentially  
10    gives eligible ratepayers a risk free one year trial  
11    period to take service under a different service  
12    subclass to compare which rate best serves their own  
13    circumstances. Moreover, such ratepayers are not  
14    locked in and may return to service under Service  
15    Class 1, rate 1, if they choose.

16           Westchester County and Assembly  
17    Members Burdick, Levenberg, and Shimsky argue that  
18    Westchester County customers are unfairly subsidizing  
19    the high property taxes imposed by New York City on  
20    Con Edison infrastructure. However, precedent shows  
21    that this criticism is not unique to this case, and  
22    that the Commission previously rejected the same  
23    argument in setting Con Edison electric rates in case  
24    08-E-0539.

25           In that case, the Commission

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2       determined that property taxes are imposed on  
3       facilities and land held and used for the Company's  
4       delivery service in its totality, and thus are an  
5       ancillary cost of having and using the property to  
6       its entire customer base for the purposes of  
7       providing essential utility services, regardless of  
8       any individual ratepayers location within the service  
9       territory.

10                   The Commission's holding and rationale  
11       in case 08-E-0539 are equally applicable to the  
12       present circumstances and the Joint Proposal.  
13       Westchester County and Assembly Members Burdick,  
14       Levenberg, and Shimsky also argue that given the  
15       energy requirements associated with the rapid growth  
16       of AI data centers, a provision should be added to  
17       the Joint Proposal to support a generic proceeding to  
18       analyze the impact of AI data centers on Con Edison's  
19       operations and costs, and determine if a separate  
20       rate classification should be adopted for AI data  
21       centers.

22                   This argument does not warrant  
23       rejection or modification of the Joint Proposal,  
24       because the opposing parties or other stakeholders  
25       are free to petition the Commission for commencement

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2 of a generic proceeding addressing AI data centers,  
3 particularly given the limited scope of individual  
4 utility rate proceedings, where not all prospective  
5 stakeholders are participating.

6           The Joint Proposal supports planned  
7 electric capital spending of approximately \$3.9  
8 billion in rate year 1, \$3.8 billion in rate year 2  
9 and \$4.1 billion in rate year 3. These investments  
10 support 312 electric capital projects or programs,  
11 including the construction of nine new transmission  
12 and distribution substations across the Company's  
13 service area that the record demonstrates are  
14 necessary to address growing electric loads.

15           The funding of work needed to connect  
16 new customers to the Company's electric system. The  
17 replacement of substation power transformers that are  
18 at the end of their useful life and need to be  
19 replaced to address reliability, the undergrounding  
20 of electrical distribution feeds and installation of  
21 submersible transformers, and the replacement of  
22 failed cable sections and transformers.

23           The individual Intervenors object to  
24 the capital expenditure budgets, asserting that they  
25 create, quote, "Large rate increases for projects not

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2           necessary or germane to reliability and safety of the  
3           electrical system, and are instead intended to  
4           support extraneous climate goals that are impossible  
5           or infeasible."   End quote.

6                         However, the Company has consistently  
7           stated throughout these proceedings and the signatory  
8           parties agree that the electric projects and programs  
9           in the Joint Proposal are designed to ensure the  
10          continuation of safe and reliable service.   And that  
11          although some of those projects and programs have the  
12          ancillary effect of supporting decarbonization goals.  
13          The capital budgets cannot be parsed out to identify  
14          any specific projects and programs that are intended  
15          only to support CLCPA goals.

16                        In our review, we have determined that  
17          the independent Intervenors fail to provide any  
18          convincing argument or evidence to support their  
19          position.   The independent Intervenors also argue  
20          that there is insufficient bulk transmission capacity  
21          to support the electric capital projects and  
22          programs.   However, these arguments are outside the  
23          scope of these rate cases and in any event are  
24          speculative.   Both the New York Independent System  
25          Operator or NYISO, and the Commission will address

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2       those issues.

3                       The NYISO, through its short-term  
4       reliability process. And the Commission in a  
5       proceeding instituted on December 18th, 2025, in case  
6       25-E-0764, to ensure that all appropriate steps are  
7       taken to address reliability needs in New York City,  
8       and that safe and adequate service is continually  
9       maintained for the short and long term.

10                      Finally, the independent Intervenors  
11       argument that providing incentives, promoting  
12       building electrification and electric vehicle  
13       adoption will increase GHG emissions due to  
14       insufficient zero emissions generation sources, and  
15       an increase in fossil fuel use to generate  
16       electricity to meet those projects and programs is  
17       also speculative, does not account for the ongoing  
18       development of wind and solar energy in the state and  
19       ignores relevant state and local laws and policies.  
20       The Commission continues to take steps to implement  
21       the CLCPA's directive to develop a renewable energy  
22       program under which New York State's electrical  
23       demand system will be zero emission by 2040.

24                      The Joint Proposal includes various  
25       programs designed to enhance Con Edison's customer

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2    service, including information technology program  
3    reporting, suspension of residential service,  
4    termination during qualifying hot and cold weather  
5    events, expanded language access, improved procedures  
6    for recoding customers as electric heat customers,  
7    and outreach and education. All of these provisions  
8    are uncontested, although UtiliSave criticizes the  
9    Company's bills for not being transparent because  
10   they do not disclose specific information that  
11   UtiliSave argues should be provided for customers to  
12   understand their bills.

13                   The Joint Proposal and signatory  
14   parties explain why UtiliSave's arguments are  
15   insufficient to require any modification, including  
16   the fact that UtiliSave did not raise such issues in  
17   testimony before the parties completed negotiations  
18   on the Joint Proposal. In contrast, Consumer Power  
19   Advocates statement in support states that, quote,  
20   "The Joint Proposal recognizes and endorses the  
21   commitment to billing transparency advocated in its  
22   testimony in this rate case." End quote.

23                   The Joint Proposal's Energy  
24   Affordability Program, or EAP provisions, are not  
25   contested. The provisions include increased target

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2 costs for the electric discount component of the EAP  
3 of \$213.7 million per rate year, up from \$166.3  
4 million per rate year in the prior rate order, and  
5 the gas discount component of the EAP of \$43.6  
6 million per rate year, up from \$35.8 million per rate  
7 year in the prior rate order.

8           While the Joint Proposals EAP budgets  
9 are based on estimations of the number of customers.  
10 Enrollment is open to all qualifying customers  
11 without limit. Customers enrolled in the EAP will no  
12 longer be subject to meter reconnection fees  
13 following termination of electric or gas service.  
14 Also, the Company will further amend its electric and  
15 gas tariffs to implement the enhanced EAP as required  
16 by the Commission's July 17th, 2025 and September  
17 19th, 2025 orders.

18           The Company will also enhance its  
19 partnerships with community-based organizations to  
20 improve outreach for the EAP and disadvantaged  
21 communities through mailings, informational meetings,  
22 and other strategies.

23           The draft order concludes that the  
24 rate plans proposed in the Joint Proposal conform  
25 with Section 7(2) and Section 7(3) of the CLCPA.

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2    Although Senator Jackson opposes the Joint Proposal.  
3    His statement of opposition nonetheless includes a  
4    list of various provisions that he supports and  
5    acknowledges constructive progress in other specified  
6    areas.

7                   Likewise, the statement of support  
8    filed by Westchester County and Assembly members  
9    Burdick, Levenberg, and Shimsky highlights their  
10   support for a number of the proposed rate plans,  
11   customer protections, as well as provisions that  
12   assist meeting the state's climate goals.

13                   In establishing electric and gas rate  
14   plans, the Commission must find that the proposed  
15   rates assure the continuation of safe and adequate  
16   service at just and reasonable rates and produce a  
17   result that is in the public interest. A negotiated  
18   Joint Proposal must meet the public interest standard  
19   after the Commission's consideration of the following  
20   factors. Whether the Joint Proposal balances the  
21   protection of consumers with fairness to investors  
22   and the long-term viability of the utility, whether  
23   it is consistent with the environmental, social, and  
24   economic policies of the Commission and the State.  
25   Whether it falls within the range of reasonable

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2     likely outcomes that would have resulted in a fully  
3     litigated proceeding, and whether the record  
4     provides a rational basis for the Commission's  
5     adoption of it.

6           These factors and considerations in  
7     the context of the negotiated settlement are  
8     themselves elements of the public interest standard.  
9     Based on a thorough evaluation of the record in this  
10    presentation of our findings, we believe that the  
11    Joint Proposal satisfies these criteria.

12           Finally, Administrative Law Judge  
13    Maureen Leary was assigned as a settlement judge in  
14    this case, and we want to give her due credit for her  
15    work. We also want to give due credit to the  
16    participating parties for all of their hard work on  
17    this case and thank the Senior Advisory Staff team  
18    assisting us here today.

19           That concludes our presentation and we  
20    are available for any questions you may have.

21           CHAIR CHRISTIAN: Thank you, Judge  
22    Planty. I appreciate the work that's gone into this.  
23    I do have one question before I make my remarks, you  
24    referenced case 08-E-0539, in reference to the  
25    treatment of taxes, consideration of taxes between

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2 Westchester and New York City, based on that number,  
3 I'm assuming that was the Con Ed rate case from 2008,  
4 2009; is that correct?

5           MS. KERSEY: That's correct. Yes.

6           \*\*

7           CHAIR CHRISTIAN: Got it. So -- so  
8 that's a -- that's a decision that pre-dates. All  
9 right. Yeah. Everybody here from almost twenty  
10 years ago. I just wanted to confirm the dates on  
11 that. So thank you.

12           Okay. We're doing two rate cases  
13 today. This being the second. I want to take a  
14 little more time and just talk about some of the  
15 discussions that have taken place.

16           SECRETARY PHILLIPS: So we're just --  
17 we're trying to get back to a picture of the  
18 Commissioners instead of a picture of the slides.

19           CHAIR CHRISTIAN: I see. Well, they  
20 are nice slides.

21           SECRETARY PHILLIPS: I'm sorry?

22           CHAIR CHRISTIAN: They are nice  
23 slides.

24           SECRETARY PHILLIPS: They are. There  
25 we go.

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2 CHAIR CHRISTIAN: And we're back.

3 SECRETARY PHILLIPS: Thank you.

4 CHAIR CHRISTIAN: Thank you.

5 Apologies for the technical issue.

6 So this being the second rate case, I  
7 want to take some time to just talk about the process  
8 and how it's come about over the last few years.

9 When I think about the rate case  
10 process, I look at them as a snapshot in time.  
11 Something that's developed over the course of an  
12 eleven-month process that captures the priorities and  
13 the needs from multiple perspectives and distills  
14 that all down into a portfolio of investments that  
15 are highly capital intensive, very long lasting, and  
16 critical to achieving the various priorities  
17 initially considered.

18 The resulting Commission action  
19 approving a rate case is based on information  
20 established in the record at the time and is  
21 consistent with the State law in place at the time.  
22 And though a snapshot in time, the rate case process  
23 and the outcomes, those are built on a foundation of  
24 meticulously crafted legal, regulatory, and policy  
25 decisions. A foundation predicated on the idea that

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2 law, not politics, be the basis upon which we  
3 regulate utilities providing our essential services.

4           This is a foundation that affects  
5 every aspect of the rate case process, including, as  
6 just discussed, the treatment of property taxes.  
7 Also, the formula used to determine the return on  
8 equity and a variety of other considerations. Far  
9 too many to list. But this is importantly a  
10 foundation built through experience. And to  
11 paraphrase Oscar Wilde, experience is the hardest  
12 teacher that gives you the test first and the lesson  
13 after. And we at this Commission have learned many  
14 such lessons through past experience.

15           Experience reinforces the fact that  
16 the rate case process is the best approach for  
17 identifying the right portfolio of investments needed  
18 to meet the needs of our systems. Now, this process  
19 includes the basics as Commissioner Bright mentioned,  
20 wires, pipes, complex equipment, transformers,  
21 switchgear, and various operational needs, bucket  
22 trucks, skilled labor, insurance, and a variety of  
23 other costs. All of these are necessary to keep the  
24 system running, and the balance we strive to achieve  
25 through the rate case process aims to keep the entire

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2           system in the best possible condition. So we can  
3           count on it during times when it can -- when external  
4           conditions are at their most extreme.

5                         Now, how we do this is a reflection of  
6           long-standing judgments, and it's based on decades of  
7           experience. Experience about how best to deliver the  
8           Commission's mandate to provide safe, reliable, and  
9           adequate service at just and reasonable rates. As a  
10          result, they are not easily or quickly altered, not  
11          without careful consideration of broader  
12          consequences.

13                        What is striking, though, is this very  
14          paradigm some commenters urge the Commission to  
15          revisit are the same ones that have underpinned the  
16          safety and reliability of the energy system, on which  
17          every New Yorker depends, every hour of every day,  
18          every year.

19                        These structures have enabled  
20          utilities to effectively plan and maintain  
21          infrastructure that we are now asking to perform  
22          under increasingly complex and demanding conditions.  
23          Now, none of this is to suggest that reform is  
24          impossible or undesirable. To the contrary, this  
25          Commission has demonstrated clearly and repeatedly in

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2 recent years a willingness to examine, refine, and in  
3 some cases fundamentally reshape regulatory  
4 approaches in response to changing circumstances.

5 When it comes to maintaining utility  
6 services, reform is best done through targeted,  
7 incremental actions. Such an approach is more likely  
8 to achieve the best outcomes without adverse  
9 consequences. To do otherwise would set aside the  
10 law when it becomes inconvenient and would put our  
11 energy systems at risk, erode trust and invalidate  
12 past commitments. The outcome would be a weakening  
13 of the foundations that keep our systems functioning.

14 That's -- now to the case before us  
15 today. Again, I want to thank Staff for their hard  
16 work in bringing this about. Again, every rate case  
17 is a feat. This one is no exception. And I know  
18 it's an outcome many of you take pride in. And I  
19 want to start with a few figures.

20 This particular rate case involved  
21 four virtual and fourteen in-person public statement  
22 hearings over the course of the eleven, twelve  
23 months, we received roughly 14,000 comments written  
24 or public statements. Of the parties, twelve  
25 supported the proposal outright, another five

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2           affirmatively stated they don't oppose. And several  
3           of the parties who did oppose, as you pointed out in  
4           your statement, ultimately felt there were many  
5           positive outcomes included in the rate case.

6                         And let's take a moment to let that  
7           sink in for a moment. It's through this engagement  
8           by parties, even those who oppose the final JP, that  
9           the proposal reflects reductions in rates for Con  
10          Ed's electric and gas business of nearly eighty-seven  
11          percent from what was initially proposed by the  
12          Company in their initial filing.

13                        Now, what Department Staff heard and  
14          what the order represents today, is a reaction to the  
15          world in which we live in. One that is characterized  
16          by increasing costs that are far beyond the cost of  
17          energy alone. Food, housing, and inflation are  
18          increasing at a rate far faster than wages. The  
19          common interest of managing these pressures is what  
20          resulted in this negotiated outcome. Many  
21          compromises were made. Compromises by diverse and  
22          frankly adversarial parties, with strong incentives  
23          to focus narrowly on their individual interests.

24                        And while the order before us  
25          certainly reflects that reality, what I see is the

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2 power of working towards a shared outcome, an outcome  
3 that is best for New Yorkers. And this settlement  
4 guarantees benefits to ratepayers that could not have  
5 been secured in a litigated case. As public  
6 officials, we all take on the responsibility of  
7 accountability. And without that accountability, we  
8 risk losing public trust.

9           I take this responsibility, and I know  
10 my fellow Commissioners do as well. I take it with  
11 the utmost seriousness. It is my expectation that  
12 colleagues elected to the State legislature and City  
13 Council, many of whom I have heard from directly or  
14 seen in the media over the last several weeks do the  
15 same.

16           I received recently a letter from 120  
17 officials spanning both State and City government.  
18 Of these officials, three were party to the case.  
19 So, of the 120, 3 were actual parties to the case.  
20 The suggestion that temporary rates be established in  
21 lieu of the negotiated agreement is not warranted,  
22 given the successful outcomes achieved by the JP.  
23 There is a time and place for temporary rates.  
24 Notably, for example, when additional time will  
25 likely result in a better permanent outcome than what

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2           can be achieved on the original schedule of the rate  
3           case, and that was not the case here.

4                       I'll note that multiple officials have  
5           called for a lower ROE, citing previous rate cases  
6           and recent Staff testimony in a different case. As  
7           noted, and shown on the slide, that was up for a  
8           little bit longer than expected. We take great  
9           efforts to set an ROE that minimizes customer costs  
10          as much as possible while maintaining the financial  
11          integrity of the utility. And we do so to ensure  
12          that ROEs are among the lowest possible. And we have  
13          evidence showing that ROEs in New York are among the  
14          lowest of utilities in the country.

15                      When we set an ROE, it's not a  
16          guarantee, it's an opportunity to earn that amount,  
17          should the Company manage its obligations and  
18          operations with the efficiency needed to achieve that  
19          outcome. Now, this 9.4 percent ROE of the Joint  
20          Proposal, this is a result of the negotiated  
21          agreement at a specific point in time. It reflects  
22          the economic conditions at the time the agreement was  
23          reached, as well as a recognition of the additional  
24          risks of this multi-year agreement.

25                      This includes financial risks and

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2           economic conditions that could change. Investor  
3           return requirements that could increase. And the  
4           inherent business risk that costs could rise faster  
5           than projected. Further, should the Company manage  
6           to keep costs even lower than their forecast suggest  
7           and earn in excess of the ROE allowed, the agreement  
8           includes an earnings sharing mechanism designed to  
9           capture savings and return those to customers.

10                        So if the customer (sic) finds enough  
11           money to earn over 9.9 percent, then customers  
12           receive at least 50 percent of those savings. In  
13           addition, half of the Company's share of any such  
14           savings are used to write down site investigation and  
15           remediation balances, leading to additional customer  
16           savings. And when the Company comes in for rates  
17           again, it will be setting rates based on these lower  
18           costs.

19                        Now, I want to take a moment to again,  
20           thank everyone involved in the process and express my  
21           appreciation not just for DPS Staff, but for all the  
22           stakeholders. That is how we achieve the best  
23           outcome for New Yorkers. And I thank you all for  
24           your hard work in bringing this before the Commission  
25           today.

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2 Commissioner Alesi?

3 COMMISSIONER ALESI: Thank you,  
4 Chairman.

5 As always, I guess I have to start  
6 with complimenting the panel and all the  
7 professionals that delivered this today, as well as  
8 the people that we're not seeing that worked on all  
9 of this.

10 Now, let me say, I understand the  
11 emotional reaction to any proposal to raise any  
12 prices anywhere, whether it's a grocery store or  
13 whether it's here for the cost of gas and electric,  
14 et cetera, et cetera. We all understand that. And  
15 it can become an emotional issue. I'd also point out  
16 that in my history, I've served as a county  
17 legislator, a member of the Assembly, and a member of  
18 the Senate. And I understand the passion that those  
19 people have when it comes to serving their  
20 constituents.

21 We have a different focus. We do have  
22 a responsibility to serve the general public, but our  
23 responsibility also extends to the fact that we have  
24 to keep vital services alive and healthy as well.  
25 Otherwise nobody gets serviced. So looking at

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2    this -- and thank you again for an excellent job,  
3    which is the basis of the -- providing your remarks  
4    today. It's very clear we have a simple pattern. I  
5    hate to keep going back to it. I will point out that  
6    based on an almost eighty-seven percent reduction in  
7    the initial ask across the board that we -- that we  
8    are providing a vital service to the general public.  
9    And it's one that is almost guaranteed to serve them  
10   the way they need to be served, and to keep this  
11   utility in operation. That's really what we have to  
12   do.

13                   So it is in the public interest to do  
14   what the net result of this negotiation does, and it  
15   does it well within the range of inflation, which is  
16   not entirely predictable. But over the course of  
17   these three years, it's fairly predictable.

18                   Emotionally, I could join anybody and  
19   say, "I don't want my rates increased," and nobody  
20   could argue with that emotional part of it. But on  
21   balance, we have to do this. It's our responsibility  
22   here as Commissioners, not as anything else, to take  
23   what you have given us and deal with it  
24   appropriately, which in my opinion means a yes vote,  
25   which you will get.

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2 CHAIR CHRISTIAN: Thank you.

3 Commissioner Valesky?

4 COMMISSIONER VALESKY: Thank you,  
5 Chair Christian. I listened carefully to your  
6 presentation. What I thought was extremely well  
7 done. And certainly, I don't see a need to repeat  
8 anything that you have already said. And I would  
9 just for the record state that I'm in complete  
10 agreement with your comments and appreciate that  
11 presentation. Judge Planty, thank you and your  
12 judicial colleagues and the entire team that worked  
13 so hard on this case. There's a lot here, obviously.  
14 We all know that.

15 I just have one question, if I could  
16 in regard to one of the twelve -- I think you  
17 indicated twelve signatories to the proposal was with  
18 the City of New York. At the time the proposal was  
19 submitted, in early November, I believe, the Joint  
20 Proposal, certainly to the City administration, was  
21 the now former administration. Is there anything in  
22 the record from the new administration or current  
23 administration since the 1st of January, I guess,  
24 that would support and/or contradict anything that  
25 the now former administration shared as it relates to

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2    this Joint Proposal?

3                   ALJ PLANTY:   No.

4                   COMMISSIONER VALESKY:   We've heard  
5    nothing from the City of New York under its new  
6    administration?

7                   MS. KERSEY:   Not to our knowledge.  
8    No.

9                   ALJ PLANTY:   Nothing's been formally  
10   filed in this case at all.  Despite any comments that  
11   may have been made in the media or anything.

12                  COMMISSIONER VALESKY:   Okay.  That's  
13   what I'm getting at.  Yeah.  So the record itself  
14   shows No, OK.  Our question when you boil all of this  
15   down comes down to your conclusion, Judge Planty, as  
16   Commissioners, we are asked to vote on one question.  
17   One question, does this meet the public interest  
18   standard?  Does the Joint Proposal that you have  
19   presented to us meet the public interest standard, I  
20   am convinced that it certainly does.

21                  And as a result, we will be supporting  
22   this order.  Thank you.

23                  CHAIR CHRISTIAN:   Thank you.

24                  Commissioner Maggiore?

25                  COMMISSIONER MAGGIORE:   Thank you.

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2 Thank you for the presentation. I  
3 have several questions about some of the items that  
4 you raised. And I'm going to start by asking some  
5 questions about the ROE. And I'd like to explore the  
6 justification for our approving it rather than how we  
7 got there.

8 So won't investors be making more  
9 money than in the past because of increased capital  
10 expenditures? And if that's the case, wouldn't that  
11 justify a lower ROE?

12 MR. HOGAN: Commissioner, I'll take  
13 that question. Investors will make more on an  
14 overall basis, the total profit for the Company, the  
15 total shareholder return will be higher. The number  
16 of dollars. Millions.

17 COMMISSIONER MAGGIORE: Yeah.

18 MR. HOGAN: The return that each  
19 investor receives for every dollar invested will be  
20 the same. The we you heard about the approximate \$4  
21 billion per year of additional CapEx that's needed.  
22 In order to build that that infrastructure, you need  
23 to raise funds, whether it be through debt or through  
24 equity. The equity has to have an appealing rate for  
25 new investors to come along. They invest. Everyone

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2 gets the same return. So it's a -- the size of the  
3 pie is growing and that does increase the total  
4 profit level. But the ROE is the same for all 9.4 in  
5 this case.

6           COMMISSIONER MAGGIORE: Okay. Well,  
7 how low could it go before Con Ed's bond rating is  
8 broken? And if it could go lower than 9.4, why don't  
9 we insist on that?

10           MR. HOGAN: So credit ratings are  
11 based on many factors. Two prominent ones are the  
12 regulatory regime where the utility operates here in  
13 New York. Also the financial strength of the  
14 Company, which is measured by the credit metrics of  
15 the Company. I'd say that if the Commission rejected  
16 this agreement on this whole basis of ROE, that would  
17 signal a very large change to the approach of the  
18 Commission. It would indicate that this regulatory  
19 regime is tougher on utilities than it had been,  
20 tougher than was already mentioned in almost any  
21 state in the country has higher average ROEs than we  
22 do, in terms of a lot of ROEs.

23           So that change regulatory regime would  
24 have an impact on the credit ratings/debt costs of  
25 the Company alone. It would not only affect Con

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2 Edison but would also affect future rate cases for  
3 other companies as well until another change is seen  
4 in terms of the way the Commission is approaching  
5 things. Specifically to Con Edison it would impact  
6 the credit rating because the credit metrics of the  
7 Company would be poor. The profit of the Company,  
8 the cash flow, the Company would be lower, and that  
9 would lead to lower credit metrics.

10                   Exactly what level would lead to a  
11 downgrade is a qualitative thing and would be weighed  
12 with everything else I just mentioned in terms of  
13 regulatory regime and such. We do look at -- the  
14 Staff looks at in every case the current rating and  
15 what credit metrics are required to maintain that  
16 rating. Con Edison has an A-minus rating by S&P  
17 equivalent by Moody's. The Joint Proposal produces  
18 credit metrics that support that.

19                   I think that if you go below nine  
20 percent, for instance, in ROE, you get into an area  
21 where there'd be pressure for a downgrade just from  
22 the credit metrics alone, not even mention the  
23 regulatory regime aspect that I already mentioned.

24                   COMMISSIONER MAGGIORE: Okay. And a  
25 downgrade would end up costing ratepayers more?

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2 MR. HOGAN: It would cost ratepayers  
3 more in debt costs.

4 COMMISSIONER MAGGIORE: Yeah.

5 MR. HOGAN: And it's not only a  
6 downgrade that can happen if you have very nuanced  
7 investors who invest a lot of money, very  
8 intelligent. Even if the rating change hasn't  
9 occurred yet, they will take note of those changes.  
10 And no doubt there will be an incremental increase in  
11 debt cost. So some of the savings that you get from  
12 lowering the ROE would be lost to a higher debt  
13 expense.

14 COMMISSIONER MAGGIORE: Okay. Just  
15 one last question on this. Procedurally, if despite  
16 everything you said, the Commission explicitly  
17 rejected the order because you wanted to a lower ROE.  
18 What would happen next?

19 MR. HOGAN: I'll touch on the  
20 financial piece as opposed to the procedural part.  
21 The financial piece, I would say it's what I  
22 described, the reaction from the credit rating  
23 agencies. We just saw a couple of days ago Moody's  
24 released a review of one of our other utilities. And  
25 talked about the rating is dependent on the rate case

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2 outcome. They pay a lot of attention to that.

3 So I think that we would open up the  
4 Company to a rating downgrade. I think that you  
5 would have higher debt costs than had been  
6 forecasted. If the Company agreed to the Joint  
7 Proposal with this change, they would have lower  
8 revenue than expected. Their debt costs would be  
9 higher. In future rate cases, we would be facing  
10 higher debt costs than we would have otherwise felt.  
11 If the Company rejected that change to the Joint  
12 Proposal, you'd have a litigated case. I think your  
13 return on equity would be still in the low nines and  
14 very similar number. And you may still have the  
15 damage from the debt cost increasing.

16 COMMISSIONER MAGGIORE: Okay. Thank  
17 you.

18 I'm going to shift to asking some  
19 questions about local taxes. And I think, Judge  
20 Planty, you mentioned that twenty-six percent of the  
21 rate increase is going toward local taxes.

22 What percentage of the delivery  
23 portion of Con Ed's customer's bills goes toward  
24 local taxes?

25 MR. CANTY: I'll take that question.

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2 When you include property taxes and revenue taxes,  
3 which are made up of GRT and MTA approximately  
4 thirty-two percent of the electric delivery bill goes  
5 to local taxes, and about twenty-seven percent of the  
6 gas delivery bill goes to local taxes.

7 COMMISSIONER MAGGIORE: Okay. So  
8 about a third of the electric bill and more than a  
9 quarter of the gas bill?

10 MR. CANTY: That's correct.

11 COMMISSIONER MAGGIORE: Okay. And how  
12 much revenue does New York City and Westchester  
13 County get from these taxes?

14 MR. CANTY: New York City gets about  
15 \$2.3 billion a year on average over the three-year  
16 rate plan for electric. Westchester, it's  
17 approximately 180 million from electric. For gas,  
18 New York City gets \$492 million on average. And  
19 Westchester gets about \$77 million.

20 COMMISSIONER MAGGIORE: Okay. And are  
21 companies like Con Ed legally entitled to recover the  
22 cost of local taxes through rates?

23 MR. CANTY: Yes. Legitimate costs of  
24 doing business. Utilities are entitled to recover  
25 those costs and rates.

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2 COMMISSIONER MAGGIORE: Okay. But  
3 local government collects revenues from an income  
4 tax. The amount of revenue is directly related to  
5 the taxpayer's income. If the local government  
6 imposes a property tax on property owners, the amount  
7 collected is related to the value of the property.  
8 Does the utility pass on its tax burden in a  
9 progressive manner, tied to ratepayers' income, or  
10 the value of their property, or their ability to pay?

11 MR. CANTY: No. The utility does not  
12 pass these tax burdens on the customers in a  
13 progressive manner. The utility charges customers  
14 based on the usage and the service class rate for  
15 that customer. It's not tied to ratepayers' income,  
16 property value, or the ability to pay. Although Con  
17 Ed does have an energy affordability program for  
18 customers who qualify.

19 COMMISSIONER MAGGIORE: Okay. Do the  
20 tax revenues collected from the utilities go to the  
21 local government general fund, or are the revenues  
22 segregated for use related to the delivery of energy?

23 MR. CANTY: Generally the property tax  
24 is collected go to the general fund and the local tax  
25 jurisdiction.

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2 COMMISSIONER MAGGIORE: Okay. So this  
3 is more of a statement than a question. So a  
4 percentage of the delivery cost of people's energy  
5 bills go towards the pot of money used to pay for  
6 such things as some of the salaries of some of the  
7 elected officials who are asking us to vote against  
8 this?

9 MR. CANTY: That's correct.

10 COMMISSIONER MAGGIORE: Okay. Am I  
11 correct that these taxes were approved by local and  
12 state governments and that those entities have the  
13 power, unlike the Public Service Commission, to  
14 repeal these taxes and perhaps replace them with more  
15 progressive way of raising the same amount of  
16 revenue?

17 MR. CANTY: That's also correct.

18 COMMISSIONER MAGGIORE: Okay. I'm  
19 going to shift to some of the issues that were raised  
20 by the individual Intervenor group and CLCPA. Now, I  
21 just spent some time exploring a cost recovery that's  
22 behind the major portion of ratepayers' energy bills,  
23 for which we have no legal authority to reject.

24 I'd like to spend a little bit of time  
25 on something that some commentators, the individual

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2     Intervenors, seem to believe is a major driver of  
3     this rate increase and that we can do something  
4     about, which is the CLCPA, also known as the State's  
5     climate law.

6           So Judge Planty, you characterized  
7     some of the basic issues, and I just want to see if  
8     you would agree with my characterization. So they're  
9     saying that the legal mandates of the CLCPA cannot  
10    possibly be met, and because they can't be met Con Ed  
11    should identify those costs incurred as a result of  
12    the CLCPA so that we, the Public Service Commission,  
13    can reject Con Ed's requests to recover those costs.

14           Do you agree with that  
15    characterization?

16           ALJ LECAKES: Hi, Commissioner. Yeah.  
17    That's essentially what they asked is for Con Edison  
18    to separate out all the costs that are solely  
19    attributable to the CLCPA, so the Commission could  
20    discard those as wasteful.

21           COMMISSIONER MAGGIORE: Okay. And  
22    would you also agree with my characterization of Con  
23    Ed's response that -- and I'm going to quote from  
24    their response, "It cannot isolate and eliminate  
25    CLCPA related programs or projects, because projects

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2 needed for safe and reliable service may also enable  
3 customers to adopt clean energy measures, such as  
4 building or vehicle electrification."

5           ALJ LECAKES: Right. They're  
6 essentially saying that there's no way to directly  
7 attribute the cost to CLCPA mandate.

8           COMMISSIONER MAGGIORE: Do you agree  
9 with that statement from Con Ed?

10          ALJ LECAKES: Yes.

11          COMMISSIONER MAGGIORE: Okay. Is it  
12 fair to say that in contrast to local taxes, that  
13 there is not a dollar amount in this rate plan that  
14 could be attributed to the CLCPA?

15          ALJ LECAKES: Right. So first of all,  
16 for local taxes, you have a direct expense. You have  
17 evidence of that through a tax bill. There's nothing  
18 like that related to the CLCPA. Instead, the CLCPA  
19 is basically a guide that helps shape programs but  
20 doesn't create any identifiable individual cost.

21          COMMISSIONER MAGGIORE: Okay. The  
22 Company's proposed gas projects and programs are  
23 estimated to reduce emissions by over 31,000 metric  
24 tons over a three-year rate plan and Building  
25 Electrification Electric Vehicles program are

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2       projected to reduce emissions by an additional seven  
3       million metric tons over the three-year rate plan,  
4       when compared to forecasted electric and delivery  
5       volume.

6                       Does this mean that approval of this  
7       order will lead to reduced emissions three years from  
8       now compared to today? In other words, is approval  
9       of this order not simply not consistent with the  
10      CLCPA, but will it help New York achieve its  
11      emissions goal?

12                   ALJ LECAKES: So what I'll say to  
13      caveat the answer that I'm about to give is that we  
14      have a long history of rate cases in the CLCPA,  
15      looking at what impacts are on the utility's plant,  
16      and it doesn't take into account the upstream impacts  
17      from end users. But as far as this rate case is  
18      concerned, yes, it is going to result in reduced  
19      emissions from the Company's transmission and  
20      delivery service.

21                   COMMISSIONER MAGGIORE: Okay. And my  
22      last question along these lines is, are there aspects  
23      of the JP that impose upon Con Ed's direction --  
24      imposed upon Con Ed directions that will help advance  
25      the State's emissions goals beyond what was initially

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2 proposed by Con Ed?

3                   ALJ LECAKES: So there as we just  
4 mentioned directives to the Company in the JP for  
5 programs and things to implement the CLCPA that are  
6 going to result in reductions overall for their  
7 plant. As for whether it's beyond what was initially  
8 proposed, it's not part of the analysis that was done  
9 in reviewing the JP, the review was done on the JP's  
10 programs relative to the public interest standard.

11                   COMMISSIONER MAGGIORE: Okay. Just a  
12 couple last questions and then shifting gears a  
13 little bit. As Judge Planty mentioned that recent  
14 comments maintained that artificial intelligence data  
15 centers are responsible for and should absorb the  
16 rising costs and rates. You would you address that,  
17 Con Ed said that they would support and participate  
18 in any generic proceedings initiated by the  
19 Commission to examine you address that as well? So I  
20 mean, to me, this seems like a good idea.

21                   Can we do this?

22                   ALJ COSTELLO: Yes, that can be done,  
23 Commissioner. The Commission on its own motion or on  
24 petition by a party or somebody else that's  
25 interested can start a generic proceeding to look

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2   into these issues.

3                   COMMISSIONER MAGGIORE:   Okay.   Thank  
4   you.   And my final question, and then I'll make a  
5   comment.   Is the settled outcome superior to what may  
6   have been achieved through a fully-litigated  
7   proceeding?

8                   ALJ COSTELLO:   Yes, it is superior.  
9   And I think Judge Planty this mentioned several  
10  things in his comments.   It -- it affords a three-  
11  year-rate plan, which basically addresses  
12  affordability concerns and provides predictability  
13  for ratepayers, as well.   The things that couldn't be  
14  achieved, there are also certain factors in -- that  
15  are allowed through Joint Proposals that are  
16  generally not done in litigated rate cases, you know.

17                   COMMISSIONER MAGGIORE:   Okay.   Thank  
18  you very much.   And thank you for the presentation  
19  and for your work on this.

20                   I'm going to say something that's not  
21  generally understood.   We are not being asked today  
22  to approve or reject a rate increase.   We're being  
23  asked today to approve or reject an order.   If we  
24  approve this order, rates will go up.   If we reject  
25  this order, rates will go up.   That said, I often

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2 feel boxed in to make the least bad choice when it  
3 comes to major rate cases.

4 I think this outcome, which is  
5 supported by entities ranging from the City of New  
6 York to the Alliance for a Green Economy, not opposed  
7 by entities ranging from PULP to the Westchester  
8 Municipal Consortium, is considering math, the law,  
9 and the fact that it costs money to keep the lights  
10 on, a good outcome. So thank you, I'm going to be  
11 supporting this measure.

12 CHAIR CHRISTIAN: Thank you.

13 Commissioner Bright.

14 COMMISSIONER BRIGHT: Thank you, Judge  
15 Planty. That was a great presentation.

16 Hi, Judge Kersey and Judge Costello.

17 So I just have a couple of questions.

18 You went over, in your presentation,  
19 some specific capital projects. It included some,  
20 you know, general capital projects of transmission  
21 and distribution substations, constructing those,  
22 replacing some transformers at the end of their  
23 useful life, et cetera. And I'm just wondering if  
24 you can describe some of the transparency and  
25 accountability measures that are built into this JP

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2           to ensure that Con Edison's spending and operations  
3           on these capital expenditures are transparent, but  
4           also that they're held accountable for that spending  
5           and their performance.

6                       MR. RIEDER: Well, good afternoon,  
7           Commissioner.

8                       So as far as the capital spending  
9           program, there is a requirement for annual and  
10          quarterly reporting for all their capital  
11          expenditures, as laid out in Appendix 11 of the Joint  
12          Proposal.

13                      COMMISSIONER BRIGHT: Great. Thank  
14          you. And for the performance metrics, they're still  
15          the -- similar to what we generally have on  
16          reliability, safety, and customer service?

17                      MR. RIEDER: Absolutely. There's four  
18          related appendixes, I believe related to all those  
19          performance metrics annual reporting associated with  
20          them, the electric ones is all laid out in Appendix  
21          17 of the Joint Proposal.

22                      COMMISSIONER BRIGHT: Great. And on  
23          the sort of transparency and accountability, there's  
24          also the reconciliation and deferral mechanisms that  
25          are in this JP, as well?

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2 MR. RIEDER: Yes, there are deferrals  
3 and reconciliations.

4 COMMISSIONER BRIGHT: Thank you for  
5 covering that.

6 Moving on, you know, I just want to  
7 talk a little bit about arrears management. And  
8 right now, people are highly stressed with the  
9 costs -- with just costs right now when we go to  
10 public statement hearings, which ALJs oversee,  
11 speaking with amazing -- the amazing team at PULP,  
12 talking with some of our outstanding DPS Staff that's  
13 on the front lines at the call center within our  
14 Office of Consumer Services or our outreach and  
15 education arm of the OCS team, which travels across  
16 the state and is one of our first lines of defense  
17 when it comes to people -- helping people know their  
18 rights and understand their options.

19 So there's a lot of work happening on  
20 the ground, but it also seems like arrears are  
21 holding very steady at pretty high levels. They  
22 started to sort of come down in the 2022-2023 period,  
23 but there sort of now back up. And can you talk  
24 about provisions that are in this JP to address  
25 arrears management?

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2 ALJ KERSEY: The Company -- as I think  
3 Judge Planty had noted, the Company provides their  
4 EAP program, which provides discounts to eligible and  
5 enrolls low-income residential customers. And there  
6 is much said in the JP with respect to expanding its  
7 outreach and education efforts to -- to residential  
8 customers. I know, as Judge Planty had mentioned,  
9 the electric and gas customers who are enrolled in  
10 the EAP are not going to be subject to reconnection  
11 fees when, you know -- which is -- which is  
12 substantial. There's no limit to participating in  
13 the EAP program. There's no numerical limitation.

14 The Company is going to be  
15 enhancing -- it's going to be required to enhance its  
16 partnerships with community-based organizations and  
17 in order to get the word out that the EAP program  
18 exists so people are able to avail themselves of --  
19 of the program that's out there. And in fact, the  
20 Company is required to conduct direct outreach, I  
21 believe, to at least twenty-five community-based  
22 organizations within rate year 1.

23 They're also going to be targeting  
24 customers who self-enroll, that are self-certified,  
25 who were previously enrolled in the EAP within the

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2    last three years, but who may no longer be enrolled  
3    in the program. So it's this constant effort to let  
4    people know of the programs that are out there that  
5    can help them when they fall on hard times. And  
6    also, they're expanding language access to twelve  
7    different languages, which, again, provides more  
8    information to people so that, when they -- when they  
9    fall on these difficult times, they're able to  
10   understand what is out there and that there are  
11   programs out there to help them bridge those gaps.

12           COMMISSIONER BRIGHT: Thanks so much  
13   for covering that.

14           So I had a question on the residential  
15   time of use and demand-based rates. Can you just  
16   elaborate a little bit more on the adjustments and  
17   requirements in this JP around the service class 1  
18   residential rates, but also how customers are made  
19   aware of those, as well --

20           ALJ KERSEY: Sure. Sure.

21           COMMISSIONER BRIGHT: -- and why they  
22   might see those as beneficial.

23           ALJ KERSEY: Sure. So SC1 rate 1 is  
24   the residential customer volumetric rate. And SC1  
25   rate 3 is an optional volumetric seasonal --

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2           seasonally differentiated time-of-use rate that's  
3           available to all SC1 customers. And SC1 rate 4 is an  
4           optional demand-based rate. And again, as I said,  
5           the JP is providing that this rate is available to  
6           all SC1 customers. The -- these subclasses -- rate  
7           1, rate 3, and rate 4 -- are available to customers.

8                         The JP provides that the Company has  
9           to, by -- I think it's November -- I think it's  
10          November 30th, 2026, study the appropriate rate  
11          structure, so study SC1 rate 3 and study SC1 rate 4.  
12          Particularly, they're going to be evaluating peak  
13          periods and the cost recovery between summer and  
14          winter seasons for SC1 rate 3 and identify any  
15          appropriate changes. And they're going to study the  
16          appropriate peak period of SC1 rate 4. The parties  
17          will be presented with the study so that they have  
18          the ability to speak to the -- the proposed changes  
19          and provide written stakeholder comments. So there's  
20          much being done on -- with respect to these  
21          subclasses.

22                         We would note that AGREE noted that  
23          the adoption of electric heat pumps under a  
24          traditional residential rate can lead to some  
25          unexpected billing experiences where a customer

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2 begins to experience winter peaks, which may result  
3 in higher -- higher net annual bills. And so there's  
4 an anticipation that the studies are going to analyze  
5 whether the tariff-rate structures are performing as  
6 expected.

7           The draft order explains that there's  
8 a pre-existing one-year price guarantee that -- that  
9 is with respect to heat pump customers. And that's  
10 being expanded and enhanced to provide that one-year  
11 guarantee to a broader class of residential customers  
12 via this Joint Proposal. All new or existing  
13 residential customers operating air-source heat pumps  
14 or ground-source heat pumps who take service under  
15 subclass 3 or 4 for the first time during the term of  
16 this rate plan can be eligible for a price guarantee  
17 for one year. So basically, they're able to receive  
18 a credit for the difference between what they may  
19 have -- may pay in excess under subclass 3 or 4  
20 versus what they would have paid under 1, so -- under  
21 rate 1. So they -- they have the ability to try out  
22 these -- these other subclasses without any financial  
23 loss for up to a year.

24           With respect to getting the word out,  
25 that's a really good question. And the Company is

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2       making efforts to do that, so a couple different  
3       things. The customer has a -- what they call the  
4       CARE program that they're working on, which is  
5       developing a suite of tools for customers to aid them  
6       in -- in -- in the customer clean energy service  
7       transmission -- transition, I'm sorry.

8           So there's clean energy experience  
9       tools that will be available to them, and also rate  
10      product tools to give them the information with  
11      respect to what other rates may be available for  
12      them, the options that are available. And there's  
13      also a heat pump operating engagement plan that will  
14      be doing the same, which will be educating customers  
15      regarding the -- the rates that are available to them  
16      and their ability to -- to try these different rates.  
17      So they -- they are required under the JP to make  
18      efforts to get the word out on these plans that might  
19      be -- might suit them better economically.

20           COMMISSIONER BRIGHT: Yeah. That's  
21      fantastic. Thank you. I have no further questions,  
22      but I would, of course, like to thank the ALJs  
23      sitting here right in front of us, Trial Staff, and  
24      the various parties that participated in this rate  
25      case. As a result of extensive public participation,

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2     like my fellow Commissioners have said, this  
3     agreement that is in front of us is a three-year rate  
4     plan instead of a one-year rate plan. And it is  
5     almost a ninety-percent reduction, even though I know  
6     my fellow Commissioners were much more precise with  
7     the eighty-seven percent number than what was  
8     originally requested. So I really just want to thank  
9     everybody for their hard work. Thank you.

10           CHAIR CHRISTIAN: Thank you.

11           Commissioner Sheehan.

12           COMMISSIONER SHEEHAN: Thank you,  
13     Chair.

14           Thank you to all the judges. If I  
15     list you all, I'll just use up more time, but also  
16     shout out to Judge Leary for -- for her work.

17           I do also want to thank the Staff, who  
18     I know spend hours and hours, and all the parties  
19     who -- I'm just going to echo the Chair's words on  
20     that. Their involvement is really critical.

21           I also want to thank the public who  
22     attended all the public statement hearings, taking  
23     the time to share their experiences, and we do pay  
24     attention to that.

25           As Commissioner Alesi said, sometimes,

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2           especially with these bigger cases that get a lot of  
3           attention and media attention, we all spend a lot of  
4           time reading all that. And it does factor -- it does  
5           go into our thinking. But at the end of the day, we  
6           have to step back and say, what's our job.

7                         So coming to that place in reviewing  
8           this, our job is to review the record before us and  
9           to decide whether the settlement agreed to by a  
10          majority of parties is a reasonable outcome and is in  
11          the public interest. And when we do that, we have  
12          specific guidelines that we follow. So we have to  
13          ensure that the terms of the JP ensure Con Ed's  
14          continued provision of safe and reliable service at  
15          just and reasonable rates, preserve the Company's  
16          operational and financial stability, fall within a  
17          range of potential litigated outcomes, or otherwise  
18          provide benefits to ratepayers that could not have  
19          been achieved in a fully litigated proceeding and are  
20          consistent with environmental, social, and economic  
21          policies of the Commission and the State. So that's  
22          what I look at when I look at this JP. So just  
23          sharing that framework for purposes of how we come at  
24          these things.

25                         So I had a bunch of areas of focus,

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2       which I shared a little bit here and there. But  
3       because I did attend many of the public statement  
4       hearings, we did hear quite a bit from Con Ed  
5       customers about affordability. So coming at this  
6       with that as my first place of focus, I wanted to say  
7       to myself, what does this JP do with respect to  
8       affordability.

9                        So as my fellow Commissioners have  
10      pointed out, it's an eighty-seven percent reduction  
11      from Con Ed's request, which is extremely significant  
12      and isn't what anybody could call, we just met in the  
13      middle. This is a significant reduction. It's  
14      consistent with inflation rates, projected inflation  
15      rates. It includes a very important enhanced EAP  
16      program and enhanced education and outreach. To me,  
17      those are some of the very specific areas where  
18      affordability has been built into this JP.

19                      I just wanted to see if there's  
20      anything else I'm missing or give you all the  
21      opportunity to add more to what I may have identified  
22      as really kind of getting at the heart of the  
23      affordability issues.

24                      So I don't know, Judge, if there's  
25      more you want to add, or any of the Staff.

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2 ALJ COSTELLO: There's -- I mean, it's  
3 things that are baked into the reductions. So in  
4 true negotiations, \$986 million in capital  
5 expenditures were removed from what Con Edison  
6 originally proposed, so that -- that's baked into  
7 that. And as Judge Planty had mentioned, there's  
8 also productivity adjustments of three percent in  
9 rate year 1 and two percent in rate years 2 and 3.  
10 And typically, there's generally -- and this is -- it  
11 varies, but it's typically a one-percent productivity  
12 adjustment that would be applied. And these -- these  
13 and other things collectively came out to reducing  
14 the electric revenue requirement by over \$782 million  
15 and the gas revenue requirements by over \$270  
16 million.

17 COMMISSIONER SHEEHAN: Okay. Thank  
18 you, Judge.

19 Just moving to property taxes, and to  
20 follow up on Commissioner Maggiore's questions, as  
21 we -- as you guys have already laid out, 25 to 30  
22 percent of Con Ed customer bills are related to  
23 property taxes. So I wanted to note that the JP does  
24 include increased transparency, bill transparency,  
25 with respect to what was the cost drivers, which I

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2 think is going to be very important, for customers to  
3 have that information.

4 One thing that's become apparent to me  
5 through the process of reviewing the JP is that  
6 percent of the bill that people pay for property  
7 taxes is with respect to Con Ed versus its peers.  
8 And Tim, I know you did some work on this. We know  
9 the utilities are all required to pay property taxes.  
10 This is not unique to Con Ed. So all of the rate  
11 cases that come before us have some component of  
12 property taxes built in to the rates. The thing that  
13 I just wanted to highlight is that Con Edison and  
14 what it pays for property taxes versus its peers,  
15 both in the State and nationally -- and I don't know,  
16 Tim, if you can just speak to that a little bit.

17 MR. CANTY: Yeah. I think one of the  
18 unique features in New York City is they have four-  
19 class property system where the City can charge  
20 utility companies, which are a class-3 property --  
21 they can charge them their own rate, different than  
22 the rate that they charge residential homeowners or  
23 co-ops or -- or other industrial or commercial  
24 classes. So I think that in particular is the main  
25 reason why New York City's property -- or Con

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2     Edison's property taxes are so high. They're  
3     relative to everybody else.

4           COMMISSIONER SHEEHAN: Okay. The  
5     other thing that the JP includes is a reporting  
6     requirement from Con Edison to report to us on their  
7     efforts to address property taxes and how they're  
8     levied on their equipment and property. So I just  
9     wanted to note that, as well, in addition to the bill  
10    transparency as ways we're trying to look more  
11    closely at that issue. So thank you all for  
12    including that in the JP. Okay.

13           Shifting to capital projects, last  
14    month, in December, we kicked off a proceeding  
15    looking at reliability in Con Ed's territory.  
16    Granted, we're looking further down the road, and the  
17    work of the Commission is looking at and requiring  
18    Con Ed to do an RFI looking at reliability from 2031,  
19    beginning 2031, for the next five years.

20           But recognizing that that's around the  
21    corner, one of the things that I wanted to just  
22    identify or maybe speak to is there is a lot of  
23    capital -- there's a huge capital budget being  
24    approved as part of this rate plan. And I just  
25    wanted to ask the question of, are we ensuring and

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2    have we looked at the capital projects that are  
3    included in this rate case to ensure that they are  
4    helping to support what we know is the future  
5    reliability issues?

6           MR. RIEDER: Yes, we can absolutely  
7    say that we have looked at the capital budget to  
8    ensure that what is being done is not -- or  
9    absolutely enhances what is coming down the pike.

10          COMMISSIONER SHEEHAN: Okay. Someone  
11    just used this analogy with me recently. Like, we  
12    want to make sure, if we're building a new  
13    substation, the analogy being, if we're building a  
14    house, we want to make sure it has a staircase. So  
15    that's really what I just wanted to get across, that  
16    we're thinking along those lines and that we're --  
17    that the investments we're making through this rate  
18    case are supportive of what we know is coming. And  
19    then so thank you. Thanks, Mike.

20          And then lastly, I did just want to  
21    note one of the things that I have spent a lot of  
22    time working on before I joined the Commission was on  
23    nonwires alternatives, nonwires solutions. And we  
24    have -- the previous rate cases included specific  
25    requirements that Con Ed bake into its review of

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2 capital projects that were looking at nonwire  
3 solutions. And I'm happy to see that it's included  
4 in the JP and that there's still a focus on requiring  
5 Con Ed to look at the cost-benefit analysis and to do  
6 the work associated with nonwires alternatives.

7           So those were my -- some of my areas  
8 of focus. And I just want to thank you guys all for  
9 your efforts. Again, thank you to everybody who put  
10 the time and effort in, all the parties, and I'll be  
11 supporting. Thank you.

12           CHAIR CHRISTIAN: Thank you.

13           Commissioner Valova.

14           COMMISSIONER VALOVA: Thank you. I  
15 want to echo everyone's thanks to our administrative  
16 law judges and Trial Staff, everyone involved, all  
17 the stakeholders who participated, as well as the  
18 Company, because it took everyone to agree to this  
19 Joint Proposal and arrive at these terms. I will be  
20 supporting it. I think that it is in the public  
21 interest based on our standard of review.

22           I do have some clarifying questions  
23 I'd like to get on the record for anyone watching.

24           First, and perhaps for Judge Costello,  
25 since you had last mentioned it, what is the

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2     productivity adjustment, and how does it result in  
3     lowered cumulative revenue requirements?

4           ALJ COSTELLO: So the productivity  
5     adjustments are an adjustment that the Commission  
6     makes in almost every rate case. And usually, a  
7     standard productivity adjustment is one percent of  
8     labor, roughly. And it's to take into account  
9     efficiencies that haven't been accounted for in our  
10    audit, that we think the utility companies are able  
11    to achieve efficiencies. And it's the one-percent  
12    productivity adjustment's a proxy for efficiencies  
13    that we think that they'll gain. And in this case,  
14    as we said, the productivity adjustment is at one  
15    percent -- three percent rate year 1 and two percent  
16    rate year 2, and two percent rate year 3.

17           COMMISSIONER VALOVA: Thank you. I  
18    think that is an important note because our role as  
19    regulators is to act as the -- or act in place of the  
20    marketplace, since utilities are not publicly  
21    traded -- or excuse me. Since they are regulated  
22    monopolies, they don't face the same competition as  
23    other companies. And I think elements like the  
24    productivity adjustment are important ways to make  
25    sure that -- as Commissioner Bright has said several

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2 times, that they are aligning their programs and  
3 services with consumer benefits.

4           My next question is, as a Westchester  
5 County resident, I am definitely interested in  
6 understanding, as much as possible, how property  
7 taxes in the county compare to property taxes in the  
8 city. So this is a clarification of something that's  
9 already been asked. I think the presentation and the  
10 Joint Proposal mentioned a total of 306 million in  
11 electric property taxes and thirty-five million in  
12 gas cumulatively not split between the city and  
13 Westchester. Does that sound right?

14           MR. RIEDER: I think what you're  
15 referring to is the property tax cost drivers.

16           COMMISSIONER VALOVA: Yes.

17           MR. RIEDER: Yes.

18           COMMISSIONER VALOVA: Correct. Thank  
19 you.

20           MR. RIEDER: Great.

21           COMMISSIONER VALOVA: What amount of  
22 that total is attributable to Westchester property  
23 taxes, or how does it compare to other revenue  
24 requirement drivers like the rate of return, for  
25 example?

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2 MR. RIEDER: So the Westchester  
3 property tax increases from current rates to the end  
4 of rate year 3 out for about \$141 million of  
5 increases projected. And the increase in ROE from  
6 where it is currently at 9.25 to what we're proposing  
7 in this rate order is approximately 144 million. So  
8 they're very comparable rate increases in Westchester  
9 versus the ROE increases.

10 COMMISSIONER VALOVA: Thank you. And  
11 so if I'm understanding this correctly, the cost  
12 drivers from the property taxes, if I'm doing my math  
13 correctly, 306 plus 35 million is 341. Of that 341,  
14 141 is attributable to Westchester County. Am I  
15 understanding that correctly?

16 MR. RIEDER: Yes, you are.

17 COMMISSIONER VALOVA: Okay. So about  
18 half. Okay. Thank you.

19 My next question is bigger picture. I  
20 would like to pose a hypothetical. A lot of public  
21 comments raised requests to hold rates steady, to not  
22 have a rate increase. As Commissioner Maggiore  
23 mentioned earlier, that is not an option for us. If  
24 we reject the Joint Proposal, as I understand it, the  
25 Company's original request would go into place,

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2 correct, for a period of time?

3 ALJ LECAKES: There's a lot of things  
4 that can happen to avoid that. But if the Commission  
5 fails to act within the suspension period on the  
6 filed rate, that rate goes into effect as filed, so  
7 yes.

8 COMMISSIONER VALOVA: Thank you.  
9 Okay. So hypothetically speaking, let's say it was  
10 an option, either for us or for the legislature or  
11 for the governor for someone, to say, we're going to  
12 freeze rates. Does that also freeze the underlying  
13 costs that the utility is incurring, or do they  
14 continue to incur?

15 MR. RIEDER: No, if we freeze rates,  
16 the costs are rate-frozen, and they're going to incur  
17 additional costs. And they're going to continue to  
18 make additional investments, but they probably won't  
19 make them as rigorously as what we would hope them to  
20 make.

21 COMMISSIONER VALOVA: What would be  
22 the effect, then, on future rates? If those costs  
23 don't freeze or don't disappear, if the Company comes  
24 back for a rate case at some point in the future,  
25 would that mean that they would snowball, in a sense?

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2 MR. RIEDER: Absolutely. Yes.

3 COMMISSIONER VALOVA: So generally  
4 speaking, as a matter of policy, having regular rate  
5 cases where utilities can recover their prudently  
6 incurred costs is actually an affordability measure.

7 MR. RIEDER: Yes, you can say that.  
8 Yes.

9 COMMISSIONER VALOVA: Because it  
10 allows to -- it allows us to even out the rate  
11 increase as opposed to allowing it to accrue, accrue,  
12 accrue and have a much larger sum in the future.

13 MR. RIEDER: So just for point of  
14 reference, back in the '70s, we had rate cases  
15 annually, year after year after year, and there  
16 wasn't Joint Proposals. And then in the '80s, we  
17 started doing the Joint Proposals which allowed for a  
18 longer period of time, so either -- in this case,  
19 it's a three-year term. It also stabilizes rates  
20 for -- stabilizes bills and rates and allows for  
21 mitigating risk for customers and the Company.

22 COMMISSIONER VALOVA: Thank you. My  
23 last question is a procedural one. Is it typical to  
24 assign a settlement judge in rate cases?

25 ALJ LECAKES: I'll take that. So the

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2 way we've operated up until recently is that a  
3 settlement judge was available on request from the  
4 parties. It's happened a few times. We're trying an  
5 experiment due to -- mostly to the length of time  
6 that settlement negotiations have been going on. And  
7 some of the feedback we've gotten from some of the  
8 smaller parties, that they didn't feel like they were  
9 being given proper consideration in settlement  
10 negotiations.

11                       So with the request of the Company and  
12 a discussion I've had with the Company prior to them  
13 issuing a notice of intent to enter settlement  
14 negotiations, I assigned a settlement judge right  
15 from the beginning here given the fact that we're in  
16 January, and which is -- January 1st is when the rate  
17 year 1 was supposed to start. So we're one month  
18 over the suspension period allowed by the statute. I  
19 think it was a large success, and we are seriously  
20 considering doing it as a matter of course for other  
21 big utilities that file major rate cases.

22                       COMMISSIONER VALOVA: That is great to  
23 hear. I don't recall ever seeing such a large  
24 reduction from the original rate request in a Joint  
25 Proposal for as long as I've been practicing, which

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2    is -- it's been thirteen, fourteen years at this  
3    point. I've lost count. If that is the result of  
4    having a settlement judge, I -- you know, I think  
5    it's definitely worth exploring, particularly if it  
6    gives Intervenors and staff in the Company a greater  
7    trust in the outcome and hopefully also demonstrates  
8    to the public, by having so many and such diverse  
9    stakeholders signed on, by also giving the public  
10   greater confidence that this settlement agreement was  
11   intensely scrutinized and that the results are just  
12   and reasonable, and so --

13                   ALJ LECAKES: And I think it was borne  
14   out by the presentation, as well as some of the  
15   earlier Commissioner comments, that first slide that  
16   shows not only the number of parties that signed on  
17   the Joint Proposal, but those who didn't feel like it  
18   was so objectionable that they needed to oppose it,  
19   and even some of the comments from those who did  
20   oppose it, who actually highlighted provisions of the  
21   proposal that they felt were favorable for customers.  
22   I think that says a lot to the way the settlement  
23   process worked in this case, so thank you so much for  
24   your comments.

25                   COMMISSIONER VALOVA: Thank you. With

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2           that, I will be supporting.

3                   CHAIR CHRISTIAN: Thank you. I will  
4           call for a vote. My vote is in favor of the  
5           recommendations contained in the draft order as  
6           discussed.

7                   Commissioner Alesi, how do you vote?

8                   COMMISSIONER ALESI: I vote yes.

9                   CHAIR CHRISTIAN: Thank you.

10                  Commissioner Valesky?

11                  COMMISSIONER VALESKY: Yes.

12                  CHAIR CHRISTIAN: Thank you.

13                  Commissioner Maggiore?

14                  COMMISSIONER MAGGIORE: Yes.

15                  CHAIR CHRISTIAN: Thank you,

16                  Commissioner Bright?

17                  COMMISSIONER BRIGHT: Yes.

18                  CHAIR CHRISTIAN: Thank you.

19                  Commissioner Sheehan?

20                  COMMISSIONER SHEEHAN: Yes.

21                  CHAIR CHRISTIAN: Thank you,

22                  Commissioner Valova?

23                  COMMISSIONER VALOVA: Yes.

24                  CHAIR CHRISTIAN: Thank you.

25                  The item is approved, and the

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2 recommendations are adopted.

3 We will take a ten-minute recess. By  
4 my clock, it is 12:35. We'll return at 12:45. Thank  
5 you.

6 (Off the record)

7 (On the record)

8 CHAIR CHRISTIAN: Good afternoon,  
9 everyone. We'll now proceed to the third and final  
10 item on our discussion agenda today. Item 301, case  
11 15-E-0302, which relates to extending the zero-  
12 emissions credit program. It'll be presented today  
13 by Rob Haberman. Ryan Coyne, Justin Fung, John  
14 Sipos, Marco Padula, Bridget Frymire, John Hogan  
15 and -- oh, sorry Jeff Hogan, apologies, and Emily  
16 Barkdoll are available for questions.

17 Rob, please begin.

18 MR. HABERMAN: Thank you. Good  
19 afternoon, Chair Christian and Commissioners. The  
20 draft order before you recommends that the Commission  
21 extend the Zero Emission Credit, or ZEC program, for  
22 four operating upstate nuclear facilities.

23 These facilities, all of which are  
24 located on the shore of Lake Ontario, include Nine  
25 Mile Point, Unit 1 and Unit 2, the James A

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2           Fitzpatrick Nuclear Power Plant, or Fitzpatrick and  
3           the R.E. Ginna Nuclear Power Plant, or Ginna.

4                   The Zero Emission Credit Program was  
5           established in 2016 as part of the Commission's  
6           original Clean Energy Standard order, wherein the  
7           Commission determined that there was a public  
8           necessity to preserve the upstate nuclear facilities'  
9           zero emission attributes.

10                   At the time, the Commission adopted  
11           Staff's proposal for ZEC contracts to be administered  
12           in six tranches of two years each. To provide  
13           certainty as how the prices would be set, the ZEC  
14           price would be updated for each tranche, pursuant to  
15           a set formula. This formula calculates the ZEC price  
16           using the social cost of carbon, subtracts costs that  
17           are already captured in the market revenues received  
18           by eligible facilities under the Regional Greenhouse  
19           Gas Initiative, or RGGI, and subtracts the value of  
20           zone A energy and capacity prices combined that  
21           exceed \$39 a megawatt hour.

22                   In order to ensure ratepayers were  
23           shielded from cost impacts, the formula included  
24           several components that are designed to mitigate the  
25           cost impact to ratepayers and ensure the facilities

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2 received adequate financial support to cover their  
3 operating costs, but not a windfall.

4           The Commission also capped the amount  
5 of ZECs purchased annually at the facilities'  
6 historic contribution to the State clean energy mix,  
7 totaling 27,618,000 megawatt hours across all four  
8 facilities. To ensure performance, the Commission  
9 established various financial consequences for  
10 failure to provide the requisite ZECs. Recognizing  
11 that plant closures could impact the production of  
12 ZECs, the Commission ordered that if any of the  
13 upstate nuclear facilities permanently stopped  
14 producing zero-emission attributes for any reason,  
15 the overall cap would be reduced by one-third.

16           The current program under these  
17 requirements runs through April 2029, when the  
18 Nuclear Regulatory Commission's operating licenses  
19 for Nine Mile Point Unit 1 and Ginna expire.  
20 However, to ensure these facilities can receive new  
21 operating licenses in advance of their 2029  
22 expiration, they need to submit an application to the  
23 NRC for what's called a subsequent license renewal,  
24 which is due no later than March 2026 for Nine Mile  
25 Point Unit 1, and June 2026 for Ginna.

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2                   Given these timing considerations and  
3 the need for these facilities to apply for their  
4 subsequent license renewals, the Commission, in an  
5 order issued on May 15th, 2025, directed Department  
6 of Public Service Staff to prepare a white paper  
7 evaluating how a discontinued -- how a continued ZEC  
8 program should be structured, and to file such white  
9 paper for public comment.

10                  In response to that directive, on July  
11 31st, 2025, Staff filed a white paper. The proposal  
12 outlined the continued need for emissions-free energy  
13 as provided by the State's existing nuclear  
14 facilities, and proposed continuing and extending the  
15 ZEC 1.0 program with modifications and updates to  
16 support the operation of these resources through  
17 2049, what the draft order calls the ZEC 2.0 program.

18                  Since its establishment in 2016, the  
19 ZEC program has served as a cornerstone of the  
20 Commission's clean energy policy by providing the  
21 facilities with fair and adequate compensation for  
22 the environmental attributes associated with their  
23 zero-emission nuclear generation, while  
24 simultaneously ensuring that facilities remain  
25 financially viable and preventing their closure,

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2 which would negatively impact New Yorkers.

3 The program has provided between 462  
4 million and 590 million dollars annually to  
5 participating facilities, resulting in the avoidance  
6 of over 13.7 million metric tons of carbon dioxide  
7 per year, and delivering the benefit of over 9.5  
8 billion through the end of the program due to the  
9 avoidance of carbon emissions alone. Furthermore,  
10 the plants have operated above anticipated levels,  
11 producing additional zero-emission energy and  
12 providing benefits to New Yorkers since the beginning  
13 of the ZEC 1.0 program.

14 Put simply, the program has delivered.  
15 What the Commission found in 2016, that the benefits  
16 of preserving the zero-emission attributes of the  
17 upstate nuclear facilities outweighed the costs, has  
18 proven true since the program's inception and remains  
19 true today and into the future.

20 Therefore, the draft order before you  
21 proposes the continuation of the existing ZEC  
22 program, referred to in the draft order, again, as  
23 ZEC 2.0, for an additional twenty years from 2029 to  
24 2049. This would run during the full renewed  
25 operating license period for Ginna and Nine Mile

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2   Point 1. The draft order recognizes that, while the  
3   program would not begin until 2029, there are several  
4   reasons to act now.

5           First, the avoidance -- sorry. First,  
6   the operation of the upstate nuclear facilities will  
7   result in the continued avoidance of emissions and  
8   contribute to the clean energy goals of the State.  
9   The facilities' verifiable historic contributions to  
10  the clean energy resource mix in the State is  
11  undisputed. All four operate at well over ninety  
12  percent capacity factor, typically shutting down only  
13  for refueling activities.

14           Second, these facilities provide  
15  critical reliability services under growing system  
16  constraints from rapid load growth and economic  
17  development, an aging generation fleet, and  
18  increasing challenges to the timely and cost  
19  effective development of new dispatchable resources.

20           Third, the upstate nuclear facilities  
21  continue to require additional financial support  
22  beyond what they earn in energy markets.  
23  Constellation, the owner and operator of the  
24  facilities, would also benefit from greater financial  
25  certainty prior to submitting its subsequent license

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2   renewal. If the renewal is granted, these facilities  
3   will be the first in the nation to operate beyond  
4   sixty years.

5           And last, the draft order recognizes  
6   the need to act on the ZEC program now, as the  
7   alternatives to the nuclear facilities are not cost  
8   effective; can't be deployed within the time frames  
9   necessary to replace the loss of this zero emission  
10   resource; and cannot replicate the unique services to  
11   the electric grid that nuclear energy provides,  
12   including for reliability during lulls of wind and  
13   solar generation.

14           In assessing the continuation of the  
15   ZEC program, the draft order also considers the land  
16   use impacts from replacement resources if the  
17   facilities were to retire; the lack of  
18   commercialized, dispatchable emissions-free  
19   resources, or DEFRs, to replace the zero-emission  
20   attributes of the facilities; the cost of additional  
21   increments of renewable energy that are expected to  
22   be higher than projected ZEC prices; the economic and  
23   jobs benefits that the facilities provide to the  
24   State and local host communities; the benefits of the  
25   federal production tax credit that is in place

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2 through 2032. That significantly reduces the cost of  
3 the program to ratepayers, the significance of which  
4 cannot be overstated.

5           As of January 7th, Constellation  
6 confirmed that it claimed \$162 million in the federal  
7 nuclear production tax credit, savings which will  
8 flow directly to New York ratepayers in 2026. And  
9 regarding State and local jobs and benefits, the  
10 retirements of the existing facilities would result  
11 in a loss of about 2,000 jobs for employees at the  
12 units, and additional jobs supported by the plants,  
13 along with an estimated \$10 billion in cumulative  
14 local tax revenues to the communities over a twenty-  
15 year period.

16           So I'll emphasize here that the draft  
17 order proposes a continuation of the ZEC program.  
18 Hence, the program only preserves the zero-emission  
19 attributes of the current operating facilities.  
20 Although many commenters in the proceedings  
21 submitted comments regarding new advanced nuclear  
22 development, this order exclusively focused on the  
23 State's existing nuclear generation fleet in upstate  
24 New York.

25           Although most of the other components

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2 of the Commission's 2016 Clean Energy Standard order  
3 remain, the draft order does include a few  
4 modifications that I'll list here.

5           First, the draft order lays out a new  
6 tranche schedule, beginning in 2029 with tranche 7  
7 that acts as a stub period to align the ZEC program  
8 with the calendar-year administration of the State's  
9 other clean energy programs. Thereafter, tranches 8  
10 through 17 are two years each through 2049.

11           Second, the draft order updates a few  
12 inputs to the ZEC formula, including the use of an  
13 updated social cost of carbon value, inflation  
14 estimates, and conversion factor. It also modifies  
15 how the basis differential is calculated, proposing  
16 to update it every four years.

17           Third, given the expected duration of  
18 the ZEC 2.0 program, the draft order finds that a  
19 periodic review of the program is both reasonable  
20 and prudent to ensure that it remains cost effective  
21 in the future, and that the Commission appropriately  
22 balances ratepayer interests with the need to retain  
23 these zero-emission generating facilities for  
24 environmental and reliability purposes.

25           The review process, occurring every

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2     four years beginning in 2033, would include, at a  
3     minimum, an analysis of ongoing costs and revenues  
4     of each facility eligible to participate in the ZEC  
5     2.0 program, including anticipated capital  
6     expenditures needed to continue safely and reliably  
7     operating the facilities; the availability of  
8     federal and other tax credits, grants, or financing  
9     to offset some of the cost of the operating plants;  
10    whether and to what extent third-party power  
11    purchase agreements provide additional compensation  
12    to the zero-emission attributes of the plant's  
13    electricity production; a review of the amounts and  
14    actual ZEC prices paid to eligible facilities as  
15    compared to the maximum ZEC prices calculated for  
16    each tranche; and other relevant considerations such  
17    as changes to federal or State policy and  
18    regulations.

19                   Fourth, the draft order directs NYSERDA  
20    to submit a proposal detailing how a voluntary sale,  
21    ZEC sale mechanism would work. Currently, NYSERDA  
22    may only sell ZECs that it purchases from eligible  
23    nuclear facilities to the obligated load-serving  
24    entities. Each load-serving entity is required to  
25    purchase ZECs from NYSERDA based on its

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2 proportionate share of statewide electric load. A  
3 voluntary sale mechanism could directly reduce  
4 program costs to ratepayers.

5           And lastly, the draft order provides  
6 the estimated monthly bill impacts for residential,  
7 commercial and industrial customers. The forecasted  
8 cost to the typical residential customer over the  
9 entire ZEC 2.0 program period is cost \$2.80 a month.  
10 It is worth noting that this amount is only  
11 reflective of the estimated cost that ratepayers  
12 would pay for the extension of this program, and  
13 does not reflect any cost that would be incurred by  
14 ratepayers should these facilities retire.

15           In the draft order, Staff did classify  
16 the maximum ZEC prices in each tranche during the  
17 course of the ZEC 2.0 proposal, identifying a  
18 maximum cost of the program to ratepayers of 33.4  
19 billion, or just over 1.6 billion per year.  
20 However, importantly, this amount is not the  
21 estimated cost of the program, and actual ZEC prices  
22 will likely be significantly lower as forecasted  
23 market revenues are almost certain to exceed \$39 a  
24 megawatt hour over the 2029 to 2049 period.

25           Staff estimates that the actual cost of

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2     the ZECs will be approximately half the maximum  
3     amount on average, because forecasted energy  
4     capacity revenues will result in downward ZEC price  
5     adjustments, which, as the draft order describes,  
6     have occurred in the current ZEC program. For  
7     example, for tranche 4, which ended in March 2025,  
8     the downward adjustment resulted in \$150 million  
9     decrease to the cost of the ZEC 1.0 program. The  
10    current period, for tranche 5, the decrease in cost  
11    is projected to be over 320 million.

12                   However, if market revenues were to  
13    stay below \$39 a megawatt hour through 2049, which  
14    would be an unprecedented period of low energy  
15    costs, the maximum ZEC price paid to the upstate  
16    nuclear -- and we paid the maximum ZEC price to the  
17    upstate nuclear facilities, this would be an overall  
18    positive outcome for ratepayers as it means lower  
19    customer bills relative to the forecasts.

20                   The draft order is a testament to the  
21    Commission's core mandate to ensure the safe and  
22    reliable operation of our electric system. Our  
23    energy system is changing rapidly in this period of  
24    growing energy demand, the retirement of existing  
25    generators, and the economic challenges that have

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2       deeply affected the pace and cost of renewables  
3       deployment.

4                       However, through actions in the Clean  
5       Energy Standard and the coordinated grid-planning  
6       process, the Commission and Department Staff are  
7       advancing measures to responsibly develop clean  
8       resources and a modern transmission and distribution  
9       system to meet the evolving needs of the State.

10                      Alongside the proposed extension of the  
11       ZEC program, Staff will continue to move these and  
12       other important efforts forward to identify the most  
13       strategic and cost-effective solutions for  
14       ratepayers.

15                      This concludes my presentation of the  
16       draft order. John Sipos, Jeff Hogan, Bridget  
17       Frymire, Marco Padula, Justin Fung, Ryan Coyne, and  
18       Emily Barkdoll and I are available to answer any  
19       questions. Thank you.

20                      CHAIR CHRISTIAN: Thank you for the  
21       presentation, Rob, and thank you, everyone else, for  
22       your work in bringing this forward.

23                      As you were speaking and talking about  
24       the original ZEC program, 2016, I was reminded that  
25       I was a stakeholder supporting that original program

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2           ten years ago. So interesting where things have  
3           gone in the last intervening decade. But I  
4           appreciate the work that you put into this. I agree  
5           with the core reasons you've identified as being  
6           compelling. And I think the added benefit of the  
7           federal tax credit is a cherry on top, making this  
8           even more appealing. So I support this, and thank  
9           you for bringing this to the Commission.

10                           Commissioner Alesi.

11                           COMMISSIONER ALESI: I have no  
12           questions or comments, but I will be supporting it.  
13           Thank you.

14                           CHAIR CHRISTIAN: Thank you.

15                           Commissioner Valesky.

16                           COMMISSIONER VALESKY: Thank you,  
17           Chair. I too remember well where I was at the  
18           commencement of ZEC 1.0 in 2016. I was a member of  
19           the Senate, certainly representing part of Central  
20           New York, where the nuclear plants are so incredibly,  
21           incredibly important. We've come a long way since  
22           those days in terms of the success of that program.

23                           So Rob, I want to thank you and the  
24           entire team for the effort that you have led. This  
25           is actually not the first item regarding ZEC 2.0 that

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2       has come before us. We've considered a draft  
3       environmental impact statement a couple of months ago  
4       on the consent agenda. So much has happened since  
5       the white paper was developed a number of months ago.  
6       So I know you've put a lot of time and effort into  
7       this.

8                        You've really addressed in your  
9       presentation a lot of the questions that I would have  
10      had, so thank you for clarifying why we're doing this  
11      now, even though 1.0 doesn't expire until 2029. It's  
12      clearly directly related to the two anticipated  
13      license extensions that will be coming up in a matter  
14      of months, I have no doubt.

15                      Thank you for also clarifying -- I  
16      know there may have been and may still be some  
17      confusion as to whether this has anything to do with  
18      all of the conversations from the governor's office,  
19      from other State agencies about advanced nuclear, new  
20      nuclear, the work that the power authority has  
21      already begun, in terms of soliciting solicitations  
22      for interested host communities, and thank you for  
23      clarifying the fact that this has nothing to do with  
24      that. This applies to the four existing upstate  
25      nuclear plants as you have indicated, so thank you

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2   for that.

3                   I think what I would like to do is  
4   just -- and thank you also. I will pick up on one of  
5   the comments that you had made in your presentation.  
6   You said the draft order is a testament to the  
7   Commission's core mandate to ensure the safe and  
8   reliable operation of our electric system. I  
9   couldn't agree more. You know, we have done -- this  
10   Commission and the Agency, we've done a lot around  
11   reliability in recent sessions and will continue to  
12   do so.

13                   From my perspective, none may be as  
14   important as this. This is literally that important.  
15   And in reading the draft order and a large collection  
16   of comments that came in around this proposal, both  
17   for and against -- and I can relate to many of them.  
18   I know there's a tremendous economic impact that  
19   these plants have in upstate New York. And counties  
20   have weighed in, and labor unions have weighed in,  
21   and environmental organizations have weighed in. But  
22   I'm just going to take about a minute or a minute and  
23   a half to read into the record, Rob, your summary --  
24   it's in Appendix B -- of what I think is probably the  
25   most important of all of the important comments that

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2 were submitted, and it reads as follows:

3 The New York Independent System  
4 Operator strongly agrees with Staff's proposal, and  
5 contends that the existing fleet of four nuclear  
6 generation resources must remain operational to avoid  
7 resource adequacy shortfalls, and other electric  
8 system reliability issues.

9 The NYISO notes that the electric grid  
10 is at an inflection point, driven by the convergence  
11 of three structural trends: The aging of the  
12 existing generation fleet; the rapid growth of large  
13 loads; and the increasing difficulty of developing  
14 new dispatchable resources.

15 The issue is not simply one of  
16 quantity of capacity, but also of quality, timing,  
17 and location of those resources' ability to serve  
18 load. The NYISO asserts that existing nuclear  
19 generation resources provide reliable, continuous,  
20 and predictable electricity.

21 The NYISO highlights the importance of  
22 maintaining the existing fleet of nuclear generation  
23 resources as contemplated in the proposal and  
24 discussed in the draft New York State Energy Plan.  
25 The NYISO notes that nuclear resources are a critical

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2       component of fuel diversity and fuel security in New  
3       York, as nuclear generation provides more than one-  
4       fifth of the annual electricity produced in New York.

5           The NYISO also states that reliability  
6       margins are eroding as traditional fossil-fuel-based  
7       generation deactivates in response to decarbonization  
8       goals and tighter emissions regulations, without  
9       comparable replacement resources coming online.

10           Large energy-intensive economic  
11       development projects are driving up demand for  
12       electricity. The NYISO asserts that the critical  
13       step to maintaining electric system reliability is to  
14       retain the four existing nuclear power reactors  
15       currently operating in upstate New York. The NYISO  
16       asserts that nuclear generators provide reliable,  
17       continuous, predictable, emissions-free supply and  
18       must remain online to maintain electric system  
19       reliability.

20           The four nuclear generators in upstate  
21       New York account for nine percent of total statewide  
22       installed capacity, with a combined nameplate  
23       capability of over 3,500 megawatts, and supply  
24       twenty-one percent of the energy produced in the  
25       State in 2024.

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2 The NYISO contends that, in the event  
3 that licenses are not renewed for these nuclear  
4 resources, reliability margins -- excuse me,  
5 reliability margin deficiencies would be expected  
6 within one year of the loss of these resources.

7 Again, I take the time to read that  
8 into the record because this is as clear as it gets,  
9 in my opinion, in terms of reliability and our  
10 mandate to ensure a reliable electric system in New  
11 York. So I will certainly be supporting this item,  
12 and thank you again for all the tremendous work  
13 you've done. Thanks.

14 CHAIR CHRISTIAN: Thank you  
15 Commissioner Maggiore?

16 COMMISSIONER MAGGIORE: Thank you.  
17 Thank you for the presentation. It was very clear.  
18 I do have a few questions.

19 We established that the ZEC 1 program  
20 was created in 2016, so it's fair to say that's not a  
21 result of the CLCPA, which was passed in 2019?

22 MR. HABERMAN: That's correct.

23 COMMISSIONER MAGGIORE: Okay. If we  
24 don't approve this measure today, will the market  
25 sustain the viability of the four nuclear plants in

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2 question?

3 MR. HOGAN: No, Commissioner. We do  
4 not believe that the markets will, over the long  
5 term, sustain their viability, based on the review  
6 that we've done.

7 COMMISSIONER MAGGIORE: Okay.  
8 Commissioner Valesky mentioned nine percent. Is that  
9 the percentage of New York State's electricity that's  
10 generated by these plants?

11 MR. HABERMAN: So as of the 2025 NYISO  
12 Gold Book, the nuclear facilities generated about  
13 20.6 percent of the statewide New York control area  
14 generation.

15 COMMISSIONER MAGGIORE: 20.6 percent?

16 MR. HABERMAN: That's correct.

17 COMMISSIONER MAGGIORE: So also, as  
18 mentioned by Commissioner Valesky, the NYISO has a  
19 long large-load interconnection queue. It tells us  
20 that several enormous energy consumers are on deck,  
21 including data centers and high tech manufacturers  
22 like Micron, which recently broke ground. Will some  
23 of these consumers that are not yet online draw power  
24 from the plants supported by the ZECs?

25 MR. HABERMAN: So generally speaking,

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2       depending on where the large load is sited, it could  
3       directly benefit from the nuclear facilities in  
4       upstate. But these facilities provide general  
5       reliability services to the statewide grid through  
6       the provision of consistent zero-emission generation.  
7       And they support the delivery of other forms of  
8       generation from across the transmission interconnects  
9       from the northern and western parts of the state to  
10      the load centers throughout the state.

11                   COMMISSIONER MAGGIORE: Okay. Suppose  
12      as a Commission, we wanted to try to address the  
13      challenge of providing all the energy that's going to  
14      be needed from the other direction. Do we have the  
15      legal authority to halt the growth of some of these  
16      large electricity consumers?

17                   MR. HABERMAN: So I'm seeing John is  
18      interested here, but I'll say that under current laws  
19      and regulations, the Commission and utilities have an  
20      obligation to serve customers.

21                   COMMISSIONER MAGGIORE: Yeah.

22                   MR. HABERMAN: But these facilities,  
23      as we noted, will be important for reliability  
24      purposes, to serve existing and new customers.

25                   COMMISSIONER MAGGIORE: Okay. You had

1           1/22/2026 - NYS PUBLIC SERVICE COMMISSION  
2 mentioned -- you had alluded to costs involved if the  
3 four nuclear plants shut down. So the ZEC program is  
4 costly. Do you have a sense of what the cost would  
5 be of replacing these energy sources? Would it be  
6 more -- rather, would it be more costly?

7           MR. HABERMAN: Yeah. The short answer  
8 is yes. These facilities provide over 27 million  
9 megawatt hours of zero-emission generation a year.  
10 The draft order recognizes that, if you were to  
11 replace these resources with equivalent renewable or  
12 zero-emission resources, it would be more costly than  
13 continuing the extension of the ZEC program.

14           COMMISSIONER MAGGIORE: Okay. And  
15 once again to build on something Commissioner Valesky  
16 said about other discussions having to do with  
17 nuclear energy, is there anything in the language of  
18 this order that sets a new precedent or that binds  
19 the Commission to future decisions about future  
20 nuclear projects?

21           No. As proposed, the program would  
22 only apply to existing nuclear facilities. They  
23 would be the only eligible facilities to participate  
24 in the ZEC 2.0 program. And actually, the draft  
25 order explicitly states that the broader policy

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2        decisions regarding new nuclear and advanced nuclear  
3        technologies are outside the scope of this order.

4           COMMISSIONER MAGGIORE:   Okay.  Thank  
5        you.  Very compelling presentation.  I will vote in  
6        favor.

7           MR. HABERMAN:  Thank you.

8           CHAIR CHRISTIAN:  Thank you.

9           Commissioner Bright?

10          COMMISSIONER BRIGHT:  Thank you, Rob  
11        and team.  I have no questions.  This is an important  
12        part of our energy mix, as Commissioner Valesky  
13        perfectly described.  And this is at a time when we  
14        need more generation, not less.  And these are our  
15        high performing assets, as you described, Rob, that  
16        have clear benefits.  I think you said 13.7 million  
17        metric tons of CO2 per year avoided.  So great work,  
18        and thank you very much.

19          MR. HABERMAN:  Thank you.

20          CHAIR CHRISTIAN:  Thank you.

21          Commissioner Sheehan, I believe you  
22        are recusing from this items.

23          COMMISSIONER SHEEHAN:  That's correct.

24          CHAIR CHRISTIAN:  Commissioner Valova?

25          COMMISSIONER VALOVA:  Thank you.  I

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2           want to thank Staff and all the stakeholders who  
3           submitted comments in this matter. I have quite a  
4           few questions, so please bear with me.

5                        I'd like to take a bird's eye view  
6           first. What would be the impact on New York or New  
7           York policy the ZEC program were not extended, if  
8           these facilities ceased operations today. I  
9           understand that the literal, immediate potentially  
10          impact would be that the facilities may no longer be  
11          able to compete in the marketplace and would have to  
12          shut down, but why do we care about that?

13                       MR. HABERMAN: Well, it's a good  
14          question, Commissioner. And I would respond that New  
15          York State is operating very thin reliability  
16          margins, both downstate, as you've heard in the past  
17          Commission session, but also upstate.

18                       The loss of these resources would  
19          require replacement resources to come online within a  
20          very quick period of time in some instances, for the  
21          facilities that would retire first. So the policy  
22          decisions that would sort of necessitate those  
23          replacement resources would be difficult ones to  
24          make, based on what could be built in what time frame  
25          and how much we could build in that time frame and

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2           what other sort of tradeoffs you have to make in  
3           terms of that.

4                        COMMISSIONER VALOVA: Thank you. I  
5           think that is a really important point. And  
6           Commissioner Valesky mentioned reliability as being a  
7           huge impetus for keeping the plants in service.

8                        For clarification, for the record,  
9           just so everyone understands the purpose of the  
10          program, the explicit purpose of the program, as I  
11          understand it, is to preserve the zero-emissions  
12          attributes, the environmental attributes of the  
13          plants. And things like the reliability benefits,  
14          the workforce benefits, allowing communities to  
15          continue receiving payments in lieu of taxes or other  
16          tax benefits, those are in a sense ancillary, even  
17          though they're big and they're very important.

18                      The primary purpose is to preserve the  
19          zero-emissions attributes. Is that a fair  
20          characterization?

21                      MR. HABERMAN: That's correct.

22                      COMMISSIONER VALOVA: So another thing  
23          that we care about, then, as I see it, apart from the  
24          reliability, is under the CLCPA, we have very  
25          ambitious greenhouse gas emissions goals. And in the

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2 absence of these units, our baseline of zero-  
3 emissions resources would significantly drop.

4 And I think the order already  
5 expresses this, but I want to make sure we get it on  
6 the record. Correct me if I'm wrong. We don't have  
7 other cost-effective zero-emissions resources we can  
8 deploy to fill the gap that would occur if any one of  
9 the plants or all of them closed down, correct?

10 MR. HABERMAN: Yeah. The draft order  
11 recognizes that what are called dispatchable  
12 emissions-free resources that could replace the  
13 attributes of these types of facilities are not fully  
14 commercialized or deployed at scale yet in New York  
15 State.

16 COMMISSIONER VALOVA: What --

17 MR SIPOS: Commissioner, if I could  
18 just add on that. To your question, if one were to  
19 take a switch and turn off these four units and lose  
20 their, you know, 3,500 megawatt capacity, there's not  
21 another switch to put on for zero-emission electric  
22 generation at that scale.

23 So that is a -- from -- from a  
24 greenhouse gas, from an air emissions perspective,  
25 from the environmental attributes that you referenced

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2           in your previous question, there is a gap. There is  
3           a vacuum that would not be filled. There are --  
4           there are not 3,500 megawatts of other electric  
5           generation just waiting to essentially pick up the  
6           baton here.

7                           COMMISSIONER VALOVA: Thank you. And  
8           what about demand-side resources, energy storage  
9           apart from generation, could they fill that gap right  
10          now?

11                           MR. HABERMAN: No. I'll look at Marco  
12          too here, but I don't believe they could, although  
13          the Commission and Staff are interested in pursuing  
14          those to the maximum extent possible, and we have  
15          ongoing proceedings to do just that.

16                           COMMISSIONER VALOVA: So my follow-up  
17          question, then, as Commissioner Maggiore noted, this  
18          program comes at a cost. What does continuing the  
19          ZEC program and investing ratepayer dollars into it  
20          mean for all of these other programs, like grid of  
21          the future, like the coordinated grid planning cycle?  
22          Are we talking about a zero-sum game? Is this  
23          either/or, or is it yes/and?

24                           MR. HABERMAN: Yes/and.

25                           COMMISSIONER VALOVA: So in other

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2 words, by extending the ZEC program, we are keeping  
3 all solutions on the table. We are maintaining our  
4 existing fleet of zero-emissions resources and all of  
5 their reliability and workforce and community  
6 benefits, while keeping our -- oh, gosh, what is the  
7 expression -- pedal to the metal, when you're  
8 stepping on the gas, not taking your foot off the gas  
9 or the electric vehicle, as we continue to  
10 aggressively attempt to grow things like flexible  
11 resources and demand-side resources and energy  
12 storage and wind and solar. Is that fair to say?  
13 There is no slowdown in any of those efforts? We're  
14 still aggressively pursuing them?

15                   MR. HABERMAN: Correct.

16                   COMMISSIONER VALOVA: I want to close  
17 with a question regarding the needs assessment for  
18 these facilities. How do we know that each of the  
19 facilities requires ZEC payments in order to remain  
20 operational?

21                   MR. HOGAN: So Commissioner, the way  
22 that we know that these -- this is a multifaceted  
23 answer. I'll try to summarize the best I can. We  
24 reviewed the cost needs of the -- of these plants on  
25 a consolidated basis, an aggregated basis in this

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2     proceeding. And we received confidential information  
3     that confirmed that we did not believe that any of  
4     the plants will be able to operate in the long term,  
5     with just market revenues, as I replied earlier.

6           In 2016, we had reviewed the costs of  
7     a facility-by-facility basis. This was in part  
8     necessary because we had two different companies that  
9     were involved, and we had that data broken down a  
10    little more granularly. At that time, the companies  
11    had stated publicly that their total costs were about  
12    \$50 per megawatt hour in order to operate the units.

13           We reviewed that confidential  
14    information and found that that was accurate. And  
15    that review was done with a confidential proceeding  
16    with multiple stakeholders that were involved. And  
17    we were comfortable that the resulting ZEC 1.0  
18    program, along with the expected market revenues,  
19    we're going to produce about enough in that \$50  
20    range -- about enough for the plants to remain in  
21    operation. Of course, that's what's occurred.

22           As Rob pointed out, for ZEC 2.0, our  
23    interest is in continuing the program and to ensure  
24    that all the zero-emission attributes are retained.  
25    This requires that the overall revenue that all the

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2 plants get is sufficient to keep everything open.

3 The confidential information, as I  
4 mentioned, was aggregated. That is in part because  
5 of the nature of the costs, which involve a lot of  
6 shared services between the plants. In addition, as  
7 Rob mentioned, there is a penalty if any one of the  
8 plants shuts down. So we have to make sure that  
9 we're providing enough in aggregate for  
10 Constellation, the owner, to keep the plants open.

11 Our review showed the overall, the  
12 plants have costs which are much higher than what the  
13 market revenues are expected to be. The market  
14 revenues in 2029, according to the ISO and internal  
15 capacity revenue forecast, are expected to be  
16 approximately \$40, or a little under \$40 per megawatt  
17 hour in 2029.

18 I'll remind you that I'd mentioned in  
19 2016, we had confirmed facility by facility that the  
20 costs were approximately \$50 per megawatt hour. I  
21 can also state that the costs were very similar  
22 facility by facility, so we've had those expenses  
23 grow over time. And so it's not surprising to myself  
24 and those who had looked at it that the 2029 and 2032  
25 data supports a much higher cost than even the \$50

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2           that had been talked about previously.

3                       So market revenues just wouldn't be  
4           enough. So we can state that with the tranche  
5           pricing proposed here in this order, as well as the  
6           forecasted market revenues that we do expect that  
7           should be enough that the plants will remain open and  
8           the zero-emission benefits will accrue for New  
9           Yorkers.

10                      Going forward as each tranche goes on,  
11           there will be slight increases in the tranche price,  
12           roughly the rate of inflation two-and-a-half to three  
13           percent. And we believe that the end result -- Rob  
14           mentioned the \$2.80 impact on an average residential  
15           customer is a -- well, it's a financial burden on  
16           customers. It's one -- we believe that it's lower  
17           than if they shut down, and it's only incrementally  
18           higher than the current ZEC 1.0 price burden.

19                      So while there hasn't been a facility-  
20           by-facility review to confirm things, we know that,  
21           as I said, based on the expense of the plants and our  
22           history of looking at these plants facility-by-  
23           facility, that this level of support is necessary to  
24           keep them all open.

25                      COMMISSIONER VALOVA: Thank you. That

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2           that answers my question fully. I will be supporting  
3           the order, and I want to provide one personal  
4           anecdote. When in my prior life working at the Pace  
5           Energy and Climate Center, I conducted some research  
6           on the impact of closures of upstate coal generators  
7           on the local communities and their loss of payments  
8           and lower taxes.

9                         And as part of that, my research team  
10          and I submitted some FOIL requests to some of the  
11          local municipalities. And one of them -- I won't  
12          mention which -- just wasn't responding to our  
13          requests. And we got frustrated and started calling,  
14          and no one was picking up. Lo and behold, they had  
15          to cut the budget and the Staff for their town  
16          clerk's office significantly, because they've lost  
17          significant revenue from less power production from  
18          the local coal facility.

19                        And that's one very, very small  
20          observation. But it definitely made me appreciate a  
21          little bit more that shuttering a large plant that  
22          provides jobs and PILOT payments or other tax revenue  
23          to local communities has a real tangible impact.

24                        So when the time comes, because these  
25          plants will shut down eventually, I hope that -- and

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2 I expect that future Commissioners on the Commission  
3 will hopefully initiate a process to ensure a just  
4 transition for the local towns and for the workers.

5 But in the meantime, I'm supportive of  
6 the program and look forward to the four-year review  
7 process, where Staff will vet the continued financial  
8 need of each of the generators so that we are not  
9 paying ZEC payments where they are not actually  
10 necessary.

11 Thank you very much.

12 CHAIR CHRISTIAN: Thank you. I will  
13 now conduct a call for a vote. My vote is in favor  
14 of the recommendations contained in the draft order  
15 as discussed.

16 Commissioner Alesi, how do you vote?

17 COMMISSIONER ALESI: I vote yes.

18 CHAIR CHRISTIAN: Thank you.

19 Commissioner Valesky?

20 COMMISSIONER VALESKY: Yes.

21 CHAIR CHRISTIAN: Thank you.

22 Commissioner Maggiore?

23 COMMISSIONER MAGGIORE: Yes.

24 CHAIR CHRISTIAN: Thank you.

25 Commissioner Bright?

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2 COMMISSIONER BRIGHT: Yes.

3 CHAIR CHRISTIAN: Thank you.

4 Commissioner Sheehan is recusing.

5 Commissioner Valova?

6 COMMISSIONER VALOVA: Yes.

7 CHAIR CHRISTIAN: Thank you.

8 The item is approved and the

9 recommendations are adopted.

10 Thank you everyone.

11 With that, we now move to the consent

12 agenda. Do any Commissioners wish to comment on or

13 recuse from voting on any items on the consent

14 agenda?

15 I'll begin with Commissioner Alesi.

16 COMMISSIONER ALESI: I do not.

17 CHAIR CHRISTIAN: Thank you.

18 Commissioner Valesky?

19 COMMISSIONER VALESKY: No comments or

20 recusals.

21 CHAIR CHRISTIAN: Thank you.

22 Commissioner Maggiore?

23 COMMISSIONER MAGGIORE: No comments,

24 but I am going to recuse from item 261.

25 CHAIR CHRISTIAN: Confirming item 261,

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2 your recusal. Thank you.

3 Commissioner Bright?

4 COMMISSIONER BRIGHT: Yes. I'm going  
5 to comment on two items. First item 262, the New  
6 York Green Bank. I wanted to express my appreciation  
7 for this item and an appreciation for the progress  
8 and the petition submitted by NYSERDA, but also  
9 Staff's work to make adjustments and modifications,  
10 which made a ton of sense to me, especially  
11 considering the need for market transformation in  
12 buildings and affordable and market-rate multi-family  
13 housing, as well as our need to transform markets  
14 within disadvantaged communities and for low and  
15 moderate-income households.

16 So as always, thanks to Chris Coll and  
17 Marco, who I didn't know I would see today, but Marco  
18 Padula in the back there and the entire markets and  
19 innovations team.

20 I also wanted to comment on item 375,  
21 the interconnection queue management item. If this  
22 is approved today, the Commission is taking -- the  
23 Commission will be taking action to maximize tax  
24 credits for the benefit of ratepayers, which I fully  
25 support. I also want to recognize the stakeholder

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2        comments asking the Commission to solve some of the  
3        DER -- some of the issues DER developers are seeing  
4        with the interconnection -- with interconnection.

5                    And I recognize that this is happening  
6        in separate proceedings. That said, hopefully it's  
7        possible that some of the structures we're putting in  
8        place here might inform improvements for the future,  
9        especially considering the ongoing work and  
10       discussions in the Interconnection Technical Working  
11       Group, which informed the Staff's proposal and the  
12       Interconnection Policy Working Group.

13                   I think there may be some standard  
14        things within the DER interconnection process that  
15        could potentially be improved, particularly around  
16        harnessing the power that is already in our  
17        interconnection queues in order to lower, defer, or  
18        avoid the costs utilities face with traditional  
19        transmission or distribution system infrastructure  
20        expenditures.

21                   And there is, of course, as we've  
22        talked about today multiple times, the continued need  
23        for equipment and materials. Infrastructure ages and  
24        we as ratepayers pay for updating that  
25        infrastructure. The Chairman and Commissioner Alesi

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2 mentioned also updating walls and wires, substations  
3 and work being done on underground equipment, things  
4 that not only keep the lights on, but that we need in  
5 order to maintain a system that we rely on every day  
6 and almost don't even recognize how much we rely on  
7 it until it fails.

8           And I understand that there's a need  
9 and a cost to maintaining a safe, reliable system.  
10 It also seems like there could be things we might be  
11 able to do so that it doesn't cost as much for  
12 utilities, or where constraints and bottlenecks can  
13 be eased. And this avoided cost would end up  
14 benefiting all New York ratepayers, regardless of if  
15 you're upstate or downstate, since, for instance, the  
16 more solar and storage that come online, the less  
17 strain the grid might see as we continue to  
18 experience load growth, since DERs can provide energy  
19 at or near where it is actually being consumed.

20           This could also have a positive impact  
21 on wholesale markets as well as some of our winter  
22 reliability needs, especially if DERs are  
23 increasingly treated as an asset in the utility  
24 planning process. I recognize that this is a  
25 delicate dance and a balance. Utilities are cautious

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2   for a reason. That said, our utilities have been  
3   open in the past, and I hope they will continue to be  
4   open to innovative approaches that will help keep  
5   customer costs down.

6           So again, while I support what we're  
7   doing here, I hope some of the structures we put in  
8   place could be a bit of a proving ground for future  
9   improvements, even as we work on a variety of other  
10   proceedings, including the proactive planning  
11   process, the grid of the future, or the Con Ed  
12   reliability needs assessment that we moved forward in  
13   December, or proceedings looking at the marginal cost  
14   of service and locational system relief values and  
15   demand reduction values to inform pricing.

16           So more flexibility, increased  
17   reliability, and cost containment is possible. If we  
18   continue to work together, we can achieve that. So I  
19   appreciate Staff's work, thorough, extremely thorough  
20   work on this particular item, and to move this  
21   particular item forward, Liz, Jason Pause, Jalila,  
22   Sandra Sweet, and also all of the stakeholders who  
23   gave incredible input in a very short amount of time  
24   and helped Staff work to meet this moment. And I am  
25   sure there will be more moments to be met.

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2 So thank you, Staff, and thank you,  
3 Chairman.

4 CHAIR CHRISTIAN: Thank you.

5 Commissioner Sheehan?

6 COMMISSIONER SHEEHAN: So I am  
7 recusing from items 368, 371, and 375. And I don't  
8 have any comments on the other items. Thank you.

9 CHAIR CHRISTIAN: Okay. Confirming  
10 recusal, 368, 371, and 375. Thank you.

11 Commissioner Valova?

12 COMMISSIONER VALOVA: No comments. No  
13 Recusals.

14 CHAIR CHRISTIAN: Thank you all. Do a  
15 call for a vote. My vote is in favor of the  
16 recommendations on the consent agenda.

17 Commission Alesi, how do you vote?

18 COMMISSIONER ALESI: Yes, on all  
19 items.

20 CHAIR CHRISTIAN: Thank you.

21 Commissioner Valesky?

22 COMMISSIONER VALESKY: Yes, on all  
23 items.

24 CHAIR CHRISTIAN: Thank you.

25 Commissioner Maggiore?

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2 COMMISSIONER MAGGIORE: Yes, on all  
3 items, except for 261, which I'm recusing from voting  
4 on.

5 CHAIR CHRISTIAN: Thank you.

6 Commissioner Bright?

7 COMMISSIONER BRIGHT: Yes, on all  
8 items.

9 CHAIR CHRISTIAN: Thank you.

10 Commissioner Sheehan?

11 COMMISSIONER SHEEHAN: Yes, on all  
12 items, with the exception of items 368, 371, and 375,  
13 where I'm recused.

14 CHAIR CHRISTIAN: Thank you.

15 And Commissioner Valova?

16 COMMISSIONER VALOVA: Yes, on all  
17 items.

18 CHAIR CHRISTIAN: Thank you. The  
19 items are approved and the recommendations are  
20 adopted.

21 Madam Secretary, is there anything  
22 further to come before us today?

23 SECRETARY PHILLIPS: There's nothing  
24 further today.

25 CHAIR CHRISTIAN: And with that, thank

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2                    you all. Happy New Year, and I adjourn.

3                                    (The hearing concluded at 1:36 p.m.)

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1           1/22/2026 - NYS PUBLIC SERVICE COMMISSION  
2   STATE OF NEW YORK  
3   I, WINSTON IDADA, do hereby certify that the  
4   foregoing was reported by me, in the cause, at the  
5   time and place, as stated in the caption hereto, at  
6   Page 1 hereof; that the foregoing typewritten  
7   transcription consisting of pages 1 through 140, is a  
8   true record of all proceedings had at the hearing.  
9                    IN WITNESS WHEREOF, I have hereunto  
10   subscribed my name, this the 27th day of January,  
11   2026.

12                   *Winston Idada*

13  
14   WINSTON IDADA, Reporter  
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